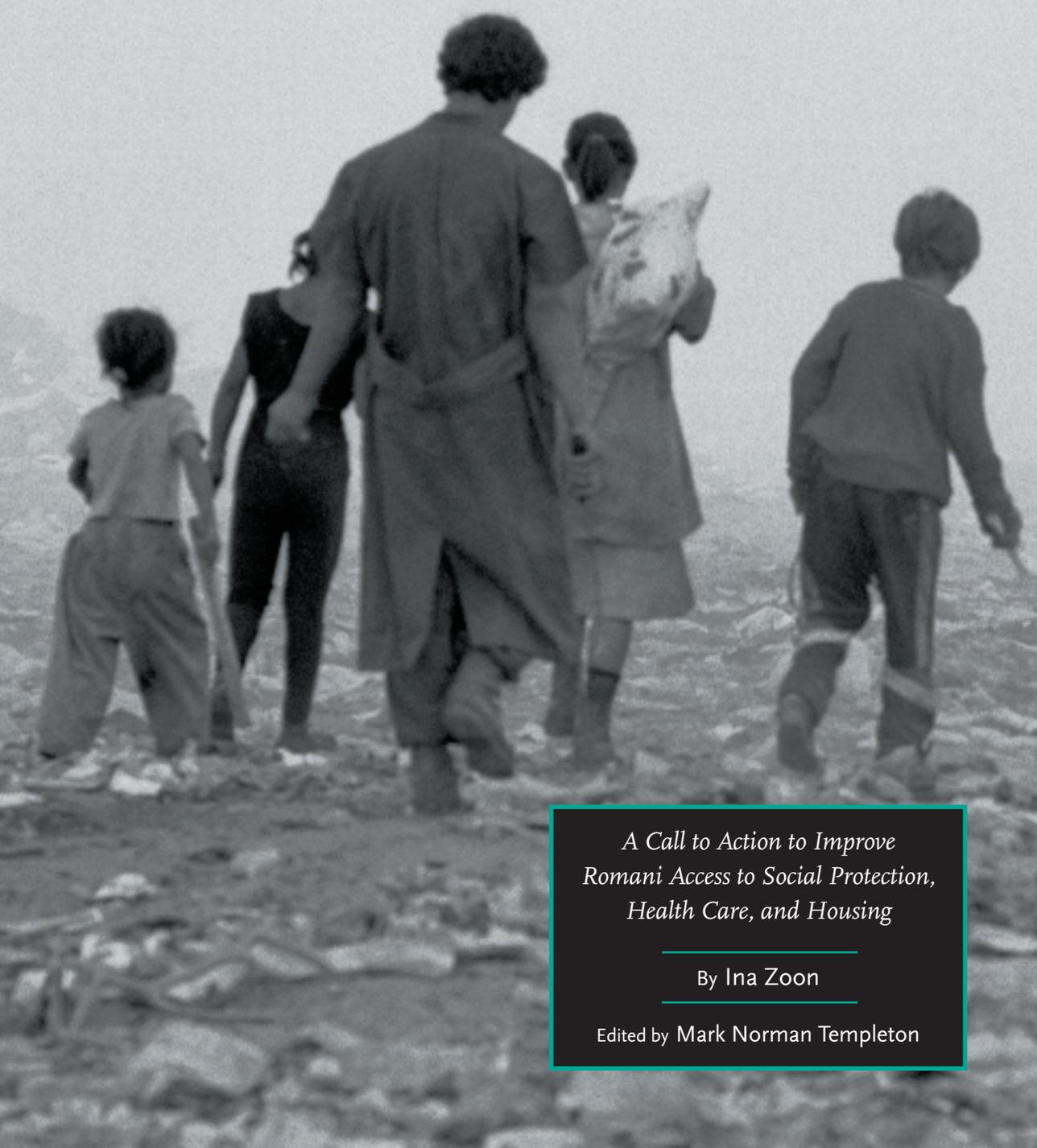


On the Margins

SLOVAKIA

Roma and Public Services in Slovakia



*A Call to Action to Improve
Romani Access to Social Protection,
Health Care, and Housing*

By Ina Zoon

Edited by Mark Norman Templeton

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A report to the



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The report was researched and written by Ina Zoon, a Romanian human rights activist who has worked on Romani issues for much of the past decade. She currently lives in Madrid and works as a consultant to OSI and others. She is a member of the board of directors of the European Roma Rights Center.

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Foreword

Mounds of garbage were piled along the narrow, rutted streets of Shuto Orizari, a Romani neighborhood in the capital city of Macedonia.

“When is the trash collected?” I asked my Macedonian companions.

“Every once in a while.”

“When is the next bus?”

“There is no bus line.”

“Hospital?”

“No hospital.”

“Who lives here?”

“Just the Roma.”

This was Skopje. But it could have been almost any city in any of the other countries of East Central Europe.

The visit to Shuto Orizari prompted me to ask Ina Zoon to begin work on these studies of the Roma and their access to public services in countries that, since the fall of communism in Eastern Europe, have been building democratic governments. *On the Margins–Slovakia* is a companion volume to Zoon’s first study, which examined Bulgaria,

Macedonia, Romania, and the Czech Republic.

A democracy with deep roots strives to treat its minority group members as equals. But if the treatment of the Roma is used as a measure to judge the democratic credentials of the Eastern European states, they fail.

These democracies grew out of revolutions led by students, intellectuals, and dissidents who had high ideals. Their goals were freedom for themselves and their fellow citizens, without exceptions.

Once in power, however, the new leaders of these newly democratic states did not stand up for the Roma. They failed to defend the constitutionally guaranteed right of the Roma to equal treatment under the law. They implemented policies that further marginalized the Roma. These elected leaders did not fight societal discrimination, either direct or indirect. They did not dismantle the policies that continue to keep the Roma down.

Today, however, a valuable opportunity to bring about change is at hand.

The European Union is now considering increasing its membership by opening its doors to the countries of Central and Eastern Europe. It is scrutinizing each accession candidate's political commitment to equal protection, the rule of law, and the treatment of minorities. Slovakia is among the candidates for admission. This report makes clear the work that lies ahead for Slovakia before its laws and the implementation of its laws are brought into accord with EU standards.

Until now, scant attention has been paid to how the social policies of new Eastern European governments have affected the Roma. Human rights groups, international donors, and Western governments have largely focused on the treatment of Roma in the criminal justice system.

This report, an inside portrait of the Roma and their equal access to the public services of social protection, health care, and housing, lays down a challenge to the new leaders and their counterparts in the West. It outlines recommendations that must be adopted before new democracies such as Slovakia join the ranks of the European Union members.

Ina Zoon's report is a sobering account of how the Roma are excluded from public services. The report drives home the reality of Romani lives—the widespread discrimination that the Roma face each day—whether in policies, laws, indifference, or hostility.

In the four countries reviewed in Zoon's first volume, Roma are as much as 7 percent of the population. In Slovakia, Roma are believed to be 10 percent of the population. Most of them are semiliterate, unskilled, and unemployed. Government policies that stigmatize and exclude Roma are creating a permanent underclass that will burden the fragile economies of states in transition. Over the next decade, unless the poli-

cies are changed, this burden will become more onerous as these states suffer a deficit of skilled laborers in the work force.

The easiest, and perhaps least costly, solution to the lack of educated, skilled workers in the Romani population could be found in desegregation of schools. Romani children should be educated along with non-Romani children. This would be less expensive than having parallel school systems and would also help impede the development of two separate, unequal societies.

Antidiscrimination legislation should be enacted and implemented.

Roma should be allowed to compete in the labor market in order to bring the Roma in from the impoverished margins of society.

National leaders must also take clear stands against racism, intolerance, and exclusion. They should review and change national and local policies and laws that allow for discrimination.

These recommendations reflect some of the ideas that Ina Zoon presents in this report. They are first steps that can open the way to improving the status of Roma in these societies.

When I return to Shuto Orizari a decade from now, I hope to see citizens who have equal access to public services—whether garbage collection, hospitals, or public transport. This is not just a question of economic development. The woes of these societies will not be cured with the trappings of prosperity. On the contrary, the laws, their implementation, and government institutions must be strengthened—the framework of society built—for prosperity to spread.

Changing the status of the Roma could prove to be the single greatest challenge for these new democracies, the future members of the European Union.

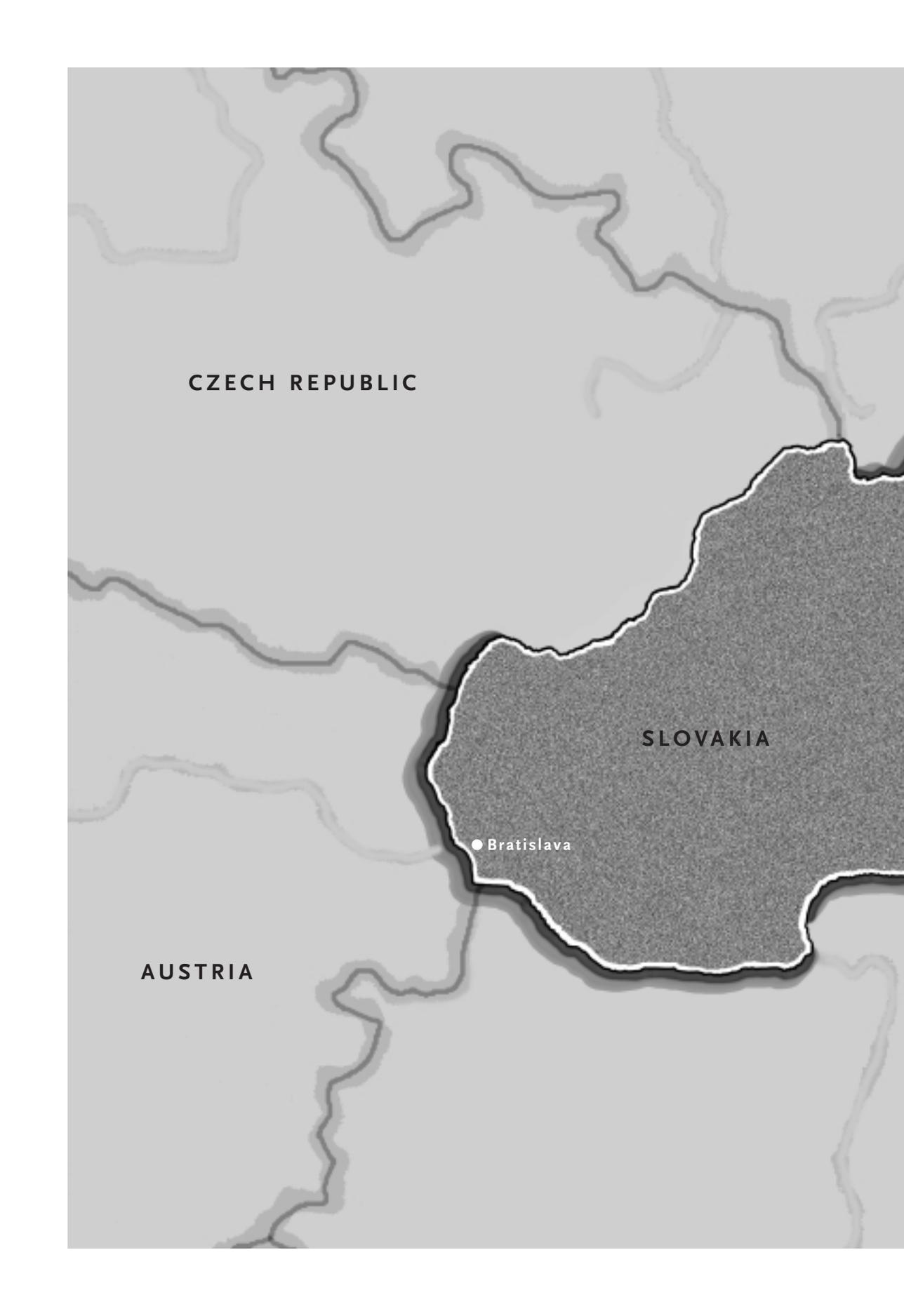
Deborah A. Harding
Vice President
Open Society Institute

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Will Kramer finalized the text and brought the report to publication.

A stylized map showing the geographical location of Slovakia. Slovakia is highlighted in a dark grey, textured fill and is outlined with a thick white border. It is surrounded by a light grey background representing neighboring countries. The text labels 'CZECH REPUBLIC', 'SLOVAKIA', and 'AUSTRIA' are placed in their respective geographical areas. A small white dot with the label 'Bratislava' is positioned on the western border of Slovakia, near the border with Austria. The map also features faint, light grey outlines of rivers and other geographical features.

CZECH REPUBLIC

SLOVAKIA

● Bratislava

AUSTRIA



POLAND

● Kezmarok

● Spisska Nova Ves

● Gelnica

● Revuca

● Roznava

● Trebisov

● Rimavska Sobota

● Lucenec

UKRAINE

HUNGARY

Slovakia's Roma face pervasive and multiple forms
of discrimination rooted in racial
prejudice.

Executive Summary

Slovakia is home to about half a million Roma who account for roughly a tenth of the country's population. Most of Slovakia's Roma live in some of the worst squalor to be found in Central and Eastern Europe. In the eastern regions of the country, a three-hour drive from Vienna, more than 124,000 Roma reside in dilapidated apartments, house trailers, and houses and shacks fashioned from wood and mud. Most of these places lack utilities and services most other Europeans have taken for granted since the end of World War II.

Slovakia's Romani citizens face pervasive and multiple forms of discrimination rooted in racial prejudice. Local officials set the Romani citizens of Slovakia apart by denying them permanent residence status in the places where they live and by effectively prescribing the places where they are allowed to dwell. Laws and regulations, as well as decisions taken by government officials, limit Romani access to social protection benefits, health care services, and public housing and transportation. Discrimination and segregation in the education system are producing a sickly, ill-educated, unemployable generation of children. Some local and national political leaders in Slovakia argue openly that the only way to deal with the current situation is to further separate the Roma from

the rest of Slovakia's population. Public opinion surveys indicate that many, if not most, people in Slovakia share these views.

Widespread joblessness is the main source of the poverty suffered by the bulk of Slovakia's Roma. Unemployment among the Roma has skyrocketed to about 80 percent in the last decade, a rate about four times higher than the national average; and most Romani young men take more than three years to find a job. Romani women are excluded from the work force almost entirely. Virtually all working-age Roma in some of the worst of Eastern Slovakia's segregated settlements are without gainful employment. Segregation and racial discrimination contribute to the low levels of education and training that prevent Roma from finding work. Roma account for 83 percent of the total number of unemployed persons who lack an elementary education and more than 41 percent of the total number of the job seekers with only elementary school certificates.

Unemployment on such a scale translates directly into severe poverty. Approximately 25 percent of Slovakia's Roma have an income of less than U.S. \$2 a day, compared with only 5 percent of the general population.

1. Legal Standards

Slovakia's constitution affirms the principles of equality before the law and equal protection under the law. It incorporates into domestic law the provisions of international human rights treaties that Slovakia has ratified. These instruments ban most forms of discrimination on the basis of race or ethnicity and forbid governments from using race in an impermissible manner, directly or indirectly, as a selection criterion in the provision of social protection, health care, and housing benefits. Moreover, these instruments bind Slovakia to pursue without delay a policy of eliminating racial discrimination in all its forms by, among other things, reviewing governmental policies on both the national and local level; amending, rescinding, or nullifying any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists; and prohibiting and bringing to an end racial discrimination by any persons, group, or organization.

There are various antidiscrimination clauses scattered throughout Slovakian law, and the government has initiated a process of drafting antidiscrimination legislation by reviewing existing rules and regulations and examining their implementation. But this process is far from complete, and the existing laws do not adequately ensure legal protection for victims of racial discrimination. Moreover, enforcement of the existing antidiscrimination laws is lacking even in cases where the standards are straightforward and where the facts plainly show that acts of impermissible discrimination have been committed. This lax legal environment, combined with a prevailing prejudice against the Roma among elected officials, public employees, and the public in general, has had a dev-

astating impact on Roma in all areas of life, including social protection, health care, and housing.

2. Social Protection

Slovakia's social protection system is not cushioning the impact of poverty upon the Roma to the extent that it could, and impermissible racial discrimination appears to be the reason. Recently enacted laws have limited the access poor people in Slovakia once had to social assistance benefits, including access to interest-free loans. These laws appear to have had a disproportionate impact upon indigent members of the Romani community, which would constitute illegal discrimination based upon race. Moreover, some regional or municipal administrators appear to exercise their discretion in a discriminatory manner when considering applications from Roma for social assistance benefits. Allegations of such abuses generally go uninvestigated. As a consequence, the abuses go unpunished, and the victims lack effective administrative and judicial remedies.

Slovakia's government has developed a strategy for improving the plight of the country's Roma. This strategy contains some positive features in the area of social protection, including an effort to improve the quality of social work and communication with Romani beneficiaries. But the strategy fails to include an analysis of the disparate impact of the newly adopted social protection laws and regulations upon the Romani community. It fails to identify or offer solutions to discriminatory practices in the provision of social assistance benefits. And it fails to include effective remedies for victims of civil rights violations in the social protection area.

3. Health Care

Unabated poverty ineluctably leads to poor health. And there are strong indications that Slovakia's health care system suffers from discriminatory practices similar to those found in the social-welfare system, resulting in disproportionate suffering for the Roma. There is a paucity of information available on the health of Slovakia's Roma, and the information that does exist is outdated. Yet the available data shows that the health of the Roma is significantly worse than that of the country's majority Slovak population. Romani men have a life expectancy that is 13 years shorter than Slovak men; and Romani women have a life expectancy that is 17 years shorter than Slovak women. Romani children, who comprise the largest single age group within the Romani population, have a significantly greater chance of not surviving beyond their early years than non-Romani children. Living conditions in their segregated settlements expose the Roma to a far higher incidence of infectious diseases than Slovakia's non-Romani citizens. Epidemics of hepatitis and parasitic diseases have been reported frequently over the years; tuberculosis has spread rapidly; meningitis remains a serious threat; and there is evidence that the situation is worsening.

There is too little information available on Romani access to Slovakia's health care services, but the existing evidence indicates that it is something less, both in degree and quality, than their Slovak counterparts enjoy. Many of the country's doctors, nurses, and other medical professionals appear to hold negative attitudes toward Romani patients. Some medical professionals have displayed overt hostility and disgust toward the Roma. Some have engaged in discriminatory behavior, refusing to treat Romani victims of skinhead violence or police brutality. Some have failed to provide Romani patients with proper medical certificates documenting the existence and extent of injuries they have suffered, especially when it has been alleged that law-enforcement officers were responsible for inflicting them. Segregation in Eastern Slovakia's maternity wards is a fact of life. Romani women in some of these facilities are relegated to Roma-only rooms; required to use different showers, bathrooms, and eating facilities; and occasionally receive treatment in separate quarters. Some Romani settlements appear to have unequal access to emergency medical services, and some doctors and ambulance crews have refused to attend to Romani patients or provide proper and timely care. The location of health care facilities and a lack of available and affordable transportation to and from these facilities have a greater negative impact on access to emergency care for Romani inhabitants of segregated settlements than similarly impoverished members of the majority population.

Slovakia's government has failed to investigate discrimination in the health care area and to alter the legal and regulatory environment that allows such discrimination to thrive. The government has also failed to investigate allegations of race-based discrimination. It has failed to discipline or prosecute health care professionals and workers who have committed overt acts of race-based discrimination. It has specifically failed to investigate and discipline or prosecute individuals responsible for abuses that arose in the former communist regime's program for sterilizing Romani women. There are reports that even in recent years doctors in Eastern Slovakia have sterilized Romani women without informed consent, and in some cases, without any consent at all. The government's strategy for improving the health of the Roma fails to address key issues, such as the need to gather information on the health of the Romani population and critically examine the performance of the health care system's delivery of services to the Roma.

4. Housing

Poverty and prejudice also affect Romani access to housing. A small minority of Romani families live in non-Romani neighborhoods in Slovakia. They hold down jobs. They run small businesses. They have marketable skills. Their children attend schools. And they lead lives that make them indistinguishable from their Slovak neighbors. However, the majority of Roma are relegated to a life apart from the country's non-Romani population. Some live in ghettos within the towns and cities; some in segregated settlements

up to three kilometers away from the nearest villages; and some in settlements that lie on the periphery of villages.

One third of Slovakia's Roma live in overcrowded dwellings lacking standard utilities and municipal services. The number of these settlements has increased dramatically, from 278 in 1988, the year before the communist system collapsed, to 616 in 2000. The 124,000 Roma living in these settlements occupy 13,000 housing units, an average of about nine persons per dwelling. The growth of these segregated settlements has been exacerbated by local officials who have used them to concentrate indigent Romani tenants evicted from public apartments in areas with mixed populations. Some of these settlements have only limited access to low-quality potable water; in many cases, dozens of families must share a single water source. Roma in other settlements must travel considerable distances to reach potable water. Many Romani settlements are located in the immediate vicinity of garbage dumps, and too often municipalities deny the settlements regular garbage collection services. Municipal transportation networks often do not reach Romani settlements, in large part because they lack proper access roads.

The laws and regulations governing public and private housing in Slovakia fail to protect the Roma against racial discrimination and segregation. Victims of racial discrimination in housing do not have effective legal remedies. Slovakia's government, both on a national and local level, has failed to address the battery of housing problems Roma face. And patterns of direct racial discrimination in the determination of residence status and access to municipal services are readily apparent. The government's strategy for improving housing for the Roma is incomplete and fails to articulate basic fair housing principles, identify needs and priorities, and target the groups in the greatest need of decent, affordable housing. It also fails to address the issues of discrimination, ghettoization, and segregation.

5. Recommendations

The discrimination, poverty, and misery that Slovakia's Roma suffer need not continue indefinitely. There are clear steps that can be taken to improve matters. And they should be taken at all levels of the country's government, from national agencies and officials in Bratislava to the lowest-ranking public servants engaged in providing social protection, health care, and housing benefits to individual Roma and their families.

The report concludes with a set of recommendations for the Slovak authorities to develop and implement meaningful legislation to protect Roma from public and private discrimination, incorporating the principles of the Council of the European Union's race directive into the Slovak legal system. It recommends further development of national strategies for improvement in the areas of Romani health, social protection, and housing, ensuring equal participation of Romani representatives at all levels and stages of the process.

6. Methodology

This report is based on fact-finding missions to Slovakia undertaken by the author in March 2000, February 2001, and March 2001. The author interviewed government officials, legislators, social workers, health and housing officials, and human rights lawyers, as well as Romani leaders, activists, and residents. The report also draws upon information from documents provided by governmental agencies, state reports submitted to regional and international bodies, as well as reports on Slovakia by intergovernmental and nongovernmental organizations (NGOs). It draws and builds upon the work of several studies of the Roma, including the *Report on the Situation of Roma and Sinti in the OSCE Area*, by the OSCE High Commissioner on National Minorities, and analyses of social protection, health care, housing, and Romani issues done in 1999 and 2000 by Slovakia's Institute for Public Affairs. The report takes into account legal developments through March 2001.

Although the author made a significant effort to address as comprehensively as possible instances of discrimination against the Roma in the areas of social protection, health care, and housing, it was impossible to gather sufficient evidence to establish prima facie cases for each type of allegation encountered during the fact-finding period. However, this does not mean that the Roma do not suffer from the practices described in these allegations. The report focuses primarily on what the author was able to document and verify during her trips. It does not claim to cover every problem faced by Slovakia's Roma.

Slovakia has ratified most human rights treaties relevant to the protection of human rights. The Slovak Constitution also guarantees equality in enjoyment of fundamental rights and freedoms regardless of race, color, or ethnicity.

Legal Standards

International, regional, and domestic legal standards firmly espouse the principles of non-discrimination and equal protection. These principles hold that most instances of discrimination on the basis of race or ethnicity infringe on universal human rights, violate basic moral principles, and impede positive social interaction and the functioning of political institutions. International, regional, and domestic bodies and courts have stated clearly that antidiscrimination and equal protection provisions apply not only to civil and political rights, but also to economic, social, and cultural rights.

This section of the report aims to elucidate the relevant standards in order to analyze the claims of discrimination in the provision of social protection, health, and housing benefits to the Roma. In general, such standards prohibit discrimination on the basis of race, ethnicity, and a variety of other criteria unless “the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate” under the international human rights conventions.¹ International and regional treaties prohibit most forms of direct and indirect discrimination. Direct discrimination takes place when “one person is treated less favorably than another is, has been, or would be treated in a comparable situation on grounds of racial or ethnic origin.”² Indirect discrimination occurs when “an apparently neutral provision, criterion, or practice would

put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion, or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.”³

This section and the report emphasize the relevant international and regional standards, because interpretive bodies have devoted greater efforts over a longer period to articulating them than Slovakia has. Furthermore, the Slovak Constitution directly incorporates international human rights standards into its domestic legal system, and Slovakia is expected to adopt relevant European standards as part of its bid to join the European Union. Therefore, it is appropriate to emphasize the international and regional standards.

The following discussion frames the analysis of discrimination claims in the subsequent sections. The rest of the report consists of the presentation of a practice or provision, a showing that the practice or provision affects Roma directly or indirectly, and an inquiry as to whether the government may be able to justify that practice or provision. In some cases, no official has stated why the government is acting, or not acting, in a particular manner. In such instances, it is necessary to guess the government’s intent. In almost all cases, even if one gives the state the benefit of the doubt, it is impossible to justify the discriminatory practice against the Roma. This method of analysis flows directly out of the legal standards and approaches reviewed in this section.

1. International Standards

The definition of racial discrimination in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) serves as the starting point for analysis of this problem by many international bodies and observers.⁴ The Convention states that “the term ‘racial discrimination’ shall mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”⁵ The UN Human Rights Committee, among others, has drawn on this definition when articulating what constitutes impermissible behavior under other international treaties.⁶

International antidiscrimination law imposes several positive duties on states. Those governments that have ratified the ICERD, for example, have agreed to “pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms” by not engaging in any “act or practice of racial discrimination against persons, groups of persons or institutions,” by ensuring that “all public authorities and public institutions, national and local, shall act in conformity with this obligation,” by taking “effective measures to review governmental, national and local policies,” by “amend[ing], rescind[ing] or nullify[ing] any laws and regulations which have the effect

of creating or perpetuating racial discrimination wherever it exists,” and by “prohibit[ing] and bring[ing] to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization.”⁷

Other international agreements contain similar duties for state parties, even though they may not elaborate on the responsibilities to the same extent. For example, any state that has signed the International Covenant on Civil and Political Rights (ICCPR) has agreed “to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized [. . . by the] Covenant, without distinction of any kind, such as race . . . or any other status.”⁸ State parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR) have agreed to guarantee that the rights enunciated in the Covenant “will be exercised without discrimination of any kind as to race. . . .”⁹ Through these provisions, governments promise that they and their agents will not discriminate on the basis of race and will not tolerate discriminatory practices by private parties.

International instruments prohibit direct and indirect racial discrimination. Regulations or instructions that deny or eliminate social benefits, separate patients into different groups, allocate housing or deny residence on ethnic grounds, for example, would constitute forms of direct discrimination prohibited under international law.

Indirect discrimination occurs when governments adopt policies that are neutral on their face but in practice adversely affect a protected group. Indirect discrimination exists, in this case, although the government may not have had the intent of creating it. For example, a government might choose to close state-owned health clinics that are not “efficient.” But if the facilities in minority neighborhoods are the only ones that are not “efficient,” and the effect of the government policy is that minority group members will have significantly less access to health care than members of the majority, then the government may have engaged in impermissible race-based discrimination. To demonstrate impermissible discrimination, it may be shown that a policy or policies have a disproportionate impact on a minority group. “In seeking to determine whether an action has an effect to the Convention,[the Committee] will look to see whether that action has an unjustifiable disparate impact upon a group distinguished by race, color, descent, or national origin.”¹⁰ Policies that discriminate against groups indirectly violate the international norm as much as those that single out a group directly.

International standards protect a wide range of individual and group liberties. Signatories to the ICERD, for example, have agreed to guarantee civil, political, economic, and social and cultural rights for all persons, regardless of race or ethnicity. Civil rights include, among others, freedom of movement and residence within the state and the right to leave any country and to return to one’s own country.¹¹ Economic, social and cultural rights include the right to public health, medical care, social security and social services, as well as the right to housing.¹²

With regards to the provision of social benefits, international treaty bodies have stated that governments should not distinguish among recipients on the basis of their race directly or indirectly. The UN Committee on Economic, Social and Cultural Rights (CESCR) has stated that governments may not discriminate on the basis of race “in access to food, as well as to means and entitlements for its procurement,”¹³ and that “health facilities, goods and services must be accessible to all, especially the most vulnerable or marginalized sections of the population, in law and fact, without discrimination on any of the prohibited grounds.”¹⁴ The Committee has also stated that governments should provide remedies for those who suffer from discrimination in “allocation and availability of access to housing,” regardless of whether private persons or public entities are responsible for the discrimination.¹⁵

States party to the ICESCR may not derogate from the core obligation of nondiscrimination and minimum services, even when they face severe resource constraints. For example, in General Comment 14 on the right to health, the CESCR stated that state parties have core obligations “to ensure the right of access to health facilities, goods and services on a nondiscriminatory basis, especially for vulnerable or marginalized groups,” “to ensure access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure freedom from hunger to everyone,” “to ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water,” and “to ensure equitable distribution of all health facilities, goods and services.”¹⁶ The Committee continued: “If resource constraints render it impossible for a State to comply fully with its Covenant obligations, it has the burden of justifying that every effort has nevertheless been made to use all available resources at its disposal in order to satisfy, as a matter of priority, the obligations as outlined above. It should be stressed, however, that a State party cannot, under any circumstances whatsoever, justify its noncompliance with the core obligations set out in paragraph 43 above which are nonderogable.”¹⁷ The Committee has affirmed similar principles in its general comments on food¹⁸ and housing,¹⁹ among others. State parties to the ICESCR may not engage in impermissible discrimination and may not eliminate provision of necessities, even during times of hardship, according to the Committee that monitors compliance with the Covenant.

Although some international treaties say that state parties may discriminate on the basis of citizenship, an emerging norm is that governments should not do so with regard to fundamental rights. The ICERD indicates clearly that the instrument does not prevent governments from distinguishing among persons on the basis of their citizenship. “This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and noncitizens.”²⁰ However, a state party to the ICCPR agrees to ensure the rights of “all individuals within its territory and subject to its jurisdiction”— citizens and noncitizens alike — although it does not prohibit discrimination on the basis of citizenship for a handful of rights, such

as voting.²¹ “Thus, the general rule is that each one of the rights of the Covenant must be guaranteed without discrimination between citizens and aliens,” the UN Human Rights Committee has stated. The Committee has expressed its concern that governments discriminate against noncitizens impermissibly on too many occasions and that they do not inform aliens sufficiently of their rights under national and international law.²² Thus the emerging norm is that governments may, but should not, treat aliens differently from their own citizens, especially with regard to fundamental human rights.

It is critical to note that international standards do not prohibit all forms of differential treatment on the basis of race. International treaties and the bodies that interpret them have stated that governments may justify distinguishing among persons on the basis of race for particular reasons, that certain circumstances may justify positive treatment for a previously disadvantaged group for a limited period of time, and that often discrimination protections apply only to rights covered by the respective treaty.

The UN Human Rights Committee has indicated that some governments may be able to articulate valid reasons for treating persons differently because of their race. In General Comment 18, “Non-discrimination,” the Committee stated that “not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the Convention.”²³ The General Comment, which serves as an encapsulation of the Committee’s understanding of the international standards based on its determinations at the time of the Comment’s publication, did not elaborate further on which criteria are reasonable and objective and which aims are legitimate. The Committee’s concluding observations on country reports help by giving some concrete examples of legal and illegal differentiation, but the Committee does not appear to have fixed on any particular definitions.

Some international agreements and bodies that interpret them have observed that governments may adopt affirmative action programs for particular groups for fixed periods of time. The ICERD, for example, states that “special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups . . . as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.”²⁴ The UN Human Rights Committee has observed that a state may grant preferential treatment to a particular group for a particular period as part of the general pursuit of equality.²⁵ These programs would benefit groups that had lacked access to or had been denied their civil, political, economic, social and cultural rights in the past.

Some, but not all, conventions limit the nondiscrimination provisions to the

rights enumerated in the treaties. For example, Article 2 of the ICCPR requires state parties not to engage in discrimination, but only “for the rights recognized in the present Covenant.” Article 26, however, requires states to ensure equal protection of the law for all persons, regardless of their racial or ethnic background. In general, the international conventions and the committees that interpret them do not limit their protections to the enumerated rights only. The Committee on the Elimination of Racial Discrimination (CERD) has stated that the rights and freedoms mentioned in the treaty “do not constitute an exhaustive list.” The Convention requires states to prohibit racial discrimination with regard to all rights contained in the Universal Declaration of Human Rights and other international human rights conventions.²⁶ Furthermore, the treaties themselves contain so many rights, covering so many subjects, that the agreements protect most areas in which persons can suffer from racial discrimination.

As Slovakia is a state party to all the conventions mentioned above, the prohibitions against discrimination are binding on the country’s legislative, administrative, and judicial apparatuses. Slovakia also ratified the Convention on the Rights of the Child (CRC),²⁷ and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).²⁸ As discussed below, Slovakia has a constitutional obligation to comply with general rules of international law, binding international agreements and other international commitments of the country. In addition, the Universal Declaration of Human Rights contains an antidiscrimination provision that is binding on all states as a matter of customary international law.

Although most treaties prohibit racial and ethnic discrimination, they generally do not elaborate on the type of proof that is required to prove illegal differential treatment, aside from mentioning that persons can prove discrimination through showing disparate impact. It is helpful to look to the emerging European standards to understand how to determine whether a policy or practice discriminates impermissibly.

2. European Standards

Various European agreements, joint statements, and directives prohibit discrimination on the basis of race and ethnicity. In recent years, European governments and intergovernmental bodies have attempted to clarify which policies and procedures constitute impermissible discrimination and how a person or group proves it. Treaties regarding social and economic rights contain antidiscrimination provisions, which have particular relevance for understanding how governments differentiate wrongly in the provision of public services.

2.1. European Convention for the Protection of Human Rights and Fundamental Freedoms

The European Convention for the Protection of Human Rights and Fundamental Freedoms prohibits discrimination on the basis of race and ethnicity, but only for the rights and freedoms contained in the Convention. Article 14 states that “the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as . . . race, color, . . . national or social origin, [or] association with a national minority. . . .” Member states agree to “secure to everyone within their jurisdiction the rights and freedoms defined in . . . this Convention.”²⁹

Despite the general prohibition of race-based distinctions, states may differentiate on the basis of race with regards to the fundamental rights and freedoms contained in the Convention, if they make appropriate showings. The European Court of Human Rights, which has the authority to interpret and apply the European Convention’s provisions, has stated that some kinds of distinctions are permissible. “A difference in treatment is discriminatory if it ‘has no objective and reasonable justification,’ that is, if it does not pursue a ‘legitimate aim’ or if there is not a ‘reasonable relationship of proportionality between the means employed and the aim sought to be realized.’”³⁰ Therefore, a state may differentiate among persons of different racial backgrounds if it has an objective and reasonable justification for its policy. In other words, if it is pursuing a legitimate aim through reasonably proportional means.

The Committee of Ministers of the Council of Europe recently approved and opened for ratification a new protocol to the Convention that expands and clarifies the Convention’s antidiscrimination protections significantly. Protocol 12 states that “[t]he enjoyment of any right set forth by law shall be secured without discrimination on any ground such as . . . race, color, . . . association with a national minority . . . or other status. No one shall be discriminated against by any public authority on any ground. . . .”³¹ Drafters intended to expand protection for those who suffer from discrimination in at least four ways: “in the enjoyment of any right specifically granted to an individual under national law; in the enjoyment of a right which may be inferred from a clear obligation of a public authority under national law, that is, where a public authority is under an obligation under national law to behave in a particular manner; by a public authority in the exercise of discretionary power (for example, granting certain subsidies); and by any other act or omission by a public authority (for example, the behavior of law enforcement officers when controlling a riot).”³²

Although Protocol 12 primarily imposes an obligation on state parties not to discriminate, it also contains affirmative duties for states to prevent some forms of discrimination among private persons. The explanatory report to the Protocol says that a state’s responsibility to “secure” may include a duty to intervene if the discrimination takes place in a sphere that the law regulates — “for example, arbitrary denial of access to work,

access to restaurants, or to services which private persons may make available to the public such as medical care or utilities such as water and electricity, etc.”³³ Therefore, states that sign and ratify the protocol will have a duty to prevent discrimination by public and private entities, in areas such as — but not limited to — granting subsidies for the provision of health care services and basic utilities.

Slovakia has ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms³⁴ and its Protocols.³⁵ Therefore, Slovakia has agreed to abide by the Convention’s antidiscrimination provisions. Some of the topics covered by the Convention, such as the right to an effective remedy³⁶ and the right to respect for private and family life,³⁷ are relevant when considering poor delivery of public services. Slovakia has also signed Protocol 12, thereby demonstrating the government’s commitment to these principles. When Protocol 12 enters into force on Slovak territory,³⁸ the state will be obliged to implement broad-based antidiscrimination measures with regards to all human rights, which will bear directly on the provision of social protection, health, and housing.

2.2. Council of the European Union Directive 2000/43/EC of 29 June 2000

The Council of the European Union has issued a directive for member states that requires them to prohibit and punish racial discrimination. Council Directive 2000/43/EC of 29 June 2000 states that “the principle of equal treatment shall mean that there shall be no direct or indirect discrimination based on racial or ethnic origin.”³⁹ The Directive bans discrimination because it interferes with the enjoyment of many civil, political, social, economic, and cultural rights.

The Directive prohibits two forms of discrimination, the first of which is direct discrimination. It states that “[d]irect discrimination shall be taken to occur where one person is treated less favorably than another is, has been, or would be treated in a comparable situation on grounds of racial or ethnic origin.”⁴⁰ To analyze whether a person, group, organization or institution has discriminated against a person or group of people directly, it is necessary to gather data about how the alleged discriminator treated the person or group asserting discrimination and others similarly situated. Then it must be shown that the alleged discriminator treated the person or group alleging discrimination worse than others in a similar position.

The Directive also bans indirect discrimination. The text states, “[I]ndirect discrimination shall be taken to occur where an apparently neutral provision, criterion, or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.”⁴¹ A government that implements a policy or practice that provides fewer services to or lowers the social status of one racial group relative to another must show that it does so for lawful

reasons through the least restrictive methods. It is not necessary to establish intent to discriminate in order to prove the existence of indirect discrimination.

The Directive forbids discrimination by public and private actors in the provision of basic social services and economic transactions. It applies to “all persons, as regards both the public and private sectors” in relation to employment,⁴² social protection “including social security and health care,”⁴³ and to “access to and supply of goods and services which are available to the public, including housing,”⁴⁴ among others.

In sum, the Directive bans direct and indirect discrimination by public and private actors in the public sphere in social security, health, and housing, unless the party making the differentiation does so for a legitimate purpose using appropriate and necessary means. The Directive directly speaks to the provision of public social protection to minority groups, which is the focus of this report.

The Directive requires states to reverse any legislation or administrative rules that discriminate impermissibly. “Member states shall take the necessary measures to ensure that . . . any laws, regulations, and administrative provisions contrary to the principle of equal treatment are abolished.”⁴⁵ Legislatures and administrative agencies should act of their own accord, without any prompting by the courts, to eliminate discrimination from the state’s policies and practices. The Directive states that an instruction to discriminate is impermissible, presumably even if no person acts on that instruction.⁴⁶ Governments that do not overturn existing discriminatory laws may violate the Directive.

States must give a great deal of weight to the claims made by the party alleging inappropriate differential treatment, according to the Directive. After the alleged victim of the discriminatory practice provides evidence that suggests direct or indirect discrimination, the burden of proof is on the alleged perpetrator to prove that his, her or its actions did not violate the Directive. When a *prima facie* case of discrimination has been established, “it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.”⁴⁷ Further, the Directive provides that indirect discrimination may be “established by any appropriate means, including on the basis of statistical evidence.”⁴⁸

European Union states are required to implement the Directive by mandating entities to take legal action to secure equal treatment. These bodies must be capable of “providing independent assistance to victims of discrimination in pursuing their complaints.”⁴⁹ The sanctions imposed for violation of antidiscrimination norms must be effective, proportionate and dissuasive, and may comprise the payment of compensation to the victim.⁵⁰ The European Commission must report on the application of this Directive within the EU member states within five years. Such a report must “take into account, as appropriate . . . the viewpoints of . . . relevant nongovernmental organizations.”⁵¹

The Directive is part of the *acquis communautaire* and Slovakia, which has sought EU membership, has the obligation to transpose it into national plans. The European Commission reaffirmed this obligation in its 2000 Regular Report on Slovakia.⁵²

2.3. Framework Convention for the Protection of National Minorities

Slovakia has ratified the Framework Convention for the Protection of National Minorities, which articulates antidiscrimination provisions for national minorities.⁵³ The Framework Convention states “[t]he Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law.”⁵⁴ Signatories “undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination”⁵⁵ and “undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States. . . .”⁵⁶ The Framework permits states to engage in affirmative action programs in order to promote equality between minority and majority groups.⁵⁷

According to the preamble, state parties agree to “implement the principles set . . . out in this Framework Convention through national legislation and appropriate governmental policies.” States report on their progress to the Council of Europe on a periodic basis.⁵⁸ Since Slovakia ratified this agreement, it has consented to implement these policies and principles and to hold itself publicly accountable for its action or inaction.⁵⁹

2.4. Organization for Security and Cooperation in Europe: Statements and Standards

Slovakia is a member state of the Organization for Security and Cooperation in Europe (OSCE), which has noted that governments should assist the Roma and protect them from differential treatment on the basis of race. At the Istanbul Summit in November 1999, leaders declared, “We deplore violence and other manifestations of racism and discrimination against minorities, including Roma and Sinti. We commit ourselves to ensure that laws and policies fully respect the rights of Roma and Sinti and, where necessary, to promote antidiscrimination legislation to this effect.”⁶⁰ In the Charter for European Security they also recognized “the particular difficulties faced by Roma and Sinti and the need to undertake effective measures in order to achieve full equality of opportunity, consistent with OSCE commitments, for persons belonging to Roma and Sinti. We will reinforce our efforts . . . to eradicate discrimination against them.”⁶¹ The heads of states or governments produced statements in Copenhagen⁶² and Helsinki,⁶³ among other places, which affirm the principles of nondiscrimination. OSCE expert groups have called on participating states “to undertake effective measures in order to achieve full equality of opportunity between persons belonging to Roma ordinarily resident in their State and the rest of the resident population.”⁶⁴

Although these OSCE statements do not have the same legal force as the international and European treaties described above, they are another mechanism through which the governments bind themselves politically, and perhaps under customary international law, to prevent discrimination against the Roma. Since the Slovak Republic participated in these OSCE discussions, the principles that came out of these meetings bind the Slovak government, particularly if it did not appear to dissent on these issues.

2.5. The European Social Charter and Revised European Social Charter

Major European treaties regarding the provision of public services prohibit discrimination in the provision of those services. Perhaps the most important treaty in this area is the Revised European Social Charter. Article E of the Revised Charter states that “the enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.” As is true for the other treaties described above, states may differentiate among persons on the basis of race if they are pursuing legitimate objectives: “A differential treatment based on an objective and reasonable justification shall not be deemed discriminatory.” The explanatory report to the Charter explains, “an objective and reasonable justification may be such as the requirement of a certain age or a certain capacity for access to some forms of education. Whereas national extraction is not an acceptable ground for discrimination, the requirement of a specific citizenship might be acceptable under certain circumstances, for example for the right to employment in the defense forces or in the civil service.”⁶⁵

The Revised Charter covers a wide range of rights. Social benefits include safe working conditions,⁶⁶ benefits to pregnant women and new mothers,⁶⁷ social security at least to the level of the European Code of Social Security,⁶⁸ social welfare services,⁶⁹ social, legal and economic protection for the family,⁷⁰ and support for the welfare of young children.⁷¹ The Convention also promotes dignity at work⁷² and antipoverty and social exclusion measures.⁷³ Health benefits include the right to protection of health⁷⁴ and the right to social and medical assistance.⁷⁵ Housing policies include promotion of access to housing of an adequate standard, prevention and reduction of homelessness with a view to its gradual elimination, and provision of affordable housing.⁷⁶ Antipoverty measures also speak to the provision of social, health, and housing services.

When signing the Charter, state parties affirm which of the Charter’s provisions apply to them. Signatories must agree to uphold the right to work, the right to organize, the right to bargain collectively, the right of children and young persons to protection, the right to social security, the right to social and medical assistance, the right of the family to social, legal, and economic protection, the right of migrant workers and their families to protection and assistance, and the right to equal opportunities without discrimination on the grounds of sex. State parties then bind themselves to an additional seven articles or 22 paragraphs, which include the rights discussed in the previous paragraph. To understand which provisions apply to which states, it is necessary to review each signatory’s ratification, acceptance or approval.

Slovakia has ratified the European Social Charter⁷⁷ and considers itself bound, *inter alia*, by the obligation to take appropriate measures to ensure the effective exercise of the right to protection of health,⁷⁸ of the right to social and medical assistance,⁷⁹ and

of the right to benefit from social welfare services.⁸⁰ Slovakia has also signed the Revised European Charter⁸¹ and the Additional Protocol to the European Social Charter that permits collective complaints,⁸² thereby indicating the government's interest in supporting further its citizens' social rights. When Slovakia ratifies these agreements and they enter into force on Slovak territory, the state will be obliged to implement these international standards in the areas of social protection, health, and housing.

3. National Standards

The recently amended⁸³ Slovak Constitution recognizes the state's obligation to comply with general rules of international law, binding international agreements and other international commitments.⁸⁴ As of 1 July 2001, international human rights treaties take precedence over national law if ratified by and promulgated under statutory requirements, regardless of whether the international standards protect rights to a greater or lesser extent than national law.⁸⁵ Prior to 1 July 2001, international obligations took precedence only if they protected rights to a greater extent than national law.⁸⁶ Since Slovakia ratified most human rights treaties relevant to the protection of minorities, such as the ICERD, ICCPR, ICESCR, the European Convention on Human Rights, and the Framework Convention for the Protection of National Minorities, prior to 1 July 2001, the standards promulgated in those international agreements take precedence over the national law only when they provide greater protection.

The Slovak Constitution includes a general antidiscrimination clause that guarantees equality in enjoyment of fundamental rights and freedoms regardless of "race, color of skin, . . . affiliation to a national or ethnic group, . . . or another status."⁸⁷ The constitutional obligation to ensure equal treatment is generally understood as covering both state authorities and private persons. No one can be "preferred" on protected grounds.⁸⁸ However, Articles 38 and 41 permit positive discrimination in favor of women, juveniles, and disabled persons; they receive more extensive health protection and special working conditions.⁸⁹

The Civil Code provides for the equality of the parties in their relationships under civil law.⁹⁰ Under Article 11 of the code, natural persons have the right to the protection of their personhood — life, health, civil honor, and human dignity, in particular — and to the protection of their names and personal traits. Any person whose rights have been violated may seek the protection of the court, unless the law designates another competent body to receive complaints.⁹¹ Individuals have the right to claim the cessation of the unjustified interference in their rights, the removal of the consequences of such interference, and just satisfaction.⁹² However, Article 11 says nothing about, does not cover, and has never been interpreted to apply to racial discrimination. Furthermore, the case law and the commentary to the Civil Code imply that cases of race discrimination do not fall within its ambit.

Slovakia's Law on Consumer Protection forbids discrimination as well. It prohibits sellers from discriminating against consumers on any grounds or acting "in violation of good manners." Acting in "violation of good manners" includes "manifestly exhibiting signs of discrimination."⁹³ Specifically, a seller cannot refrain from selling products that are on display or otherwise prepared for sale or refuse to provide services for which he has the necessary operational capacities.⁹⁴ Although the legal standard is clear, enforcement appears to have been minimal.⁹⁵

Slovakia's current Labor Code asserts that no organization may discriminate for impermissible reasons with regards to the right to work, to free choice of employment, to satisfactory working conditions, and to protection against unemployment. Impermissible reasons include "race, color, language, sex, social origin, age, religion, political or other opinion, trade union activities, belonging to a national minority or ethnic group, or other status."⁹⁶ Discrimination against women⁹⁷ and discrimination based on disabilities⁹⁸ are expressly prohibited. Juveniles have an equal right to vocational training.⁹⁹ Employers are prohibited from publishing job advertisements that impose any limitation or discrimination on protected grounds.¹⁰⁰ The controlling bodies¹⁰¹ may oblige the employer to adopt corrective measures and to report on their implementation¹⁰² or may impose high fines, ranging from 500,000 Sk to 1,000,000 Sk (from U.S. \$12,500 to U.S. \$25,000) for repeated violations.¹⁰³ Although the standards are straightforward, enforcement seems to be lacking. Neither the European Commission against Racism and Intolerance nor the author found concrete examples in which the state had imposed sanctions for contravention of the Labor Code's antiracial discrimination clause.¹⁰⁴

The draft of the new Labor Code provides greater protections for persons asserting gender discrimination, but not for those alleging mistreatment because of racial or ethnic bias. According to the draft, an employer will bear the burden of proving that it did not discriminate between men and women, if an employee asserts that the employer differentiated among similar workers on the basis of gender.¹⁰⁵ The shift in the burden of proof does not apply to other forms of discrimination. The European Union required Slovakia to make sure that the new Labor Code will offer protection against dismissal to employees who initiate judicial procedures because of discrimination.¹⁰⁶

The European Commission has indicated that Slovakia needs to continue to update its laws with regards to racial and ethnic antidiscrimination as a part of the accession process. The Commission's 2000 Regular Report makes clear that Slovakia must introduce and implement legislation putting into practice Directive 2000/43/EC on race discrimination.¹⁰⁷ At the beginning of 2001, as a part of the negotiation process, the Commission made clear that combating racial discrimination is a "prominent element of the political *acquis* in the EU" and is an element of the legislative *acquis*.¹⁰⁸ The EU highlighted the need for the effective adoption of Directive 2000/43/EC, noting in particular the Directive's scope, the need to ensure effective redress for the victims of racial dis-

crimination, and the Directive's requirement that the government create a body that "promotes nondiscrimination, provides assistance to individual victims of discrimination, conducts surveys on discrimination and publishes reports and recommendations on discrimination."¹⁰⁹

The Slovak government's Human Rights Office has reviewed the existing antidiscrimination clauses in the Slovak legislation, and is making efforts to examine the implementation and related jurisprudence.¹¹⁰ It has produced two documents outlining the conceptual framework of future antidiscrimination legislation. As of July 2001, however, complete drafts were not yet available.¹¹¹

Widespread racial bias against Roma in Slovakia's labor market has made it difficult for them to secure jobs for significant periods of time. As a result, many Roma find themselves needing social assistance of one form or another.

Barriers to Social Protection

This section of the report examines Romani access to social protection benefits in Slovakia. It does not, however, address child allowance programs, pensions, or short-term unemployment benefits. Generally, Slovakia's Romani population is young and has a relatively small number of pensioners. Most Roma without regular jobs are indigents who have suffered long-term unemployment and are covered by social protection programs. In assessing the extent to which Slovakia's government fails to provide the Roma with equal access to social benefits aimed at alleviating the effects of poverty, the report will review the general level of poverty and unemployment in the country, discrimination against Roma in the labor market, and specific social assistance programs and eligibility criteria for particular forms of support. It will also examine the disparate impact of recently adopted social assistance regulations on the Romani community, examples of direct discrimination in providing social assistance to Romani claimants, additional obstacles encountered by Roma in accessing social assistance benefits, and declarations by government officials and political leaders on the Roma as beneficiaries of the social assistance system.

1. Poverty and Unemployment in Slovakia

In December 1994, Slovakia had a population of approximately 5.4 million (The government completed a new census on 26 May 2001, but the results were not available by the time of this report's publication). Nearly 84,000 people, or approximately 1.6 percent of the overall population, declared themselves to be Roma. However, the official estimate of the number of Roma actually living in Slovakia is 500,000,¹ which is in line with estimates made by NGOs.² Most of the Roma reside in Eastern Slovakia, and about 124,000 of them live in segregated settlements.³ Children under the age of 14 account for a much larger share of the Romani population (43.4 percent) than of the overall population (24.9 percent). Roma account for a smaller share of the higher age groups than members of the non-Romani population.⁴ Approximately four out of every five Roma are under the age of 34, which is the result of a high birth rate and a high mortality among adults.⁵

The overall unemployment rate in Slovakia increased from 13.7 percent in 1998 to 19.1 percent in 2000,⁶ though there are significant regional differences.⁷ The unemployment rate for the Roma is approximately four times higher than the national average,⁸ having skyrocketed to about 80 percent over the past decade.⁹ Unemployment for Roma is worst in the settlements of Eastern Slovakia, where the Ministry of Labor, Social Affairs and Family estimates that the average unemployment rate reaches 88.5 percent.¹⁰ In some settlements, the unemployment rate reaches 100 percent.¹¹ Although Roma comprise only about 10 percent of the overall population, they account for more than 83 percent of the total number of the unemployed people who lack an elementary education, and more than 41 percent of the total number of job seekers with only elementary school certificates.¹² Romani women are generally unable to find employment, and most Romani young people spend more than three years trying to secure a job.¹³

Poverty in Slovakia is highly segmented along ethnic, gender, and regional lines. Roma, women, and those living in Eastern Slovakia are particularly affected. The regions with the highest proportion of Roma are the country's poorest, with the greatest number of people in need of social assistance. These areas are Rimavska Sobota, Revuca, Kezmarok, Trebisov, Spisska Nova Ves, Roznava, Lucenec, and Gelnica.¹⁴ People in rural areas suffer more from unemployment and are more likely to need social assistance benefits. Roma in general — and Romani children in particular — are the people hardest hit by poverty in Slovakia. The World Bank estimates that 25 percent of Slovakia's Roma have an income of less than U.S. \$2 a day, as opposed to approximately 5 percent of the general population.¹⁵ This makes Roma living in households headed by unemployed persons one of the most vulnerable groups in Slovakia today.¹⁶ The World Bank has said that the plight of the Roma is Slovakia's "most significant challenge to poverty reduction."¹⁷

2. Social Assistance Regulations and Discrimination in the Labor Market

2.1. Official categories of poverty

Slovakia's social assistance programs target two main categories of people. The first category is comprised of those people who experience "material hardship" or "material distress" and earn less than a "life minimum," as this term is defined by government regulations.¹⁸ The second category is comprised of people who suffer from "social hardship" or "social distress," "a condition associated with the inability of the individual to take care of himself, of his household, of the protection and exercise of his rights and legally protected interest, or have no contact with society, in particular because of age, unfavorable health condition, inability to socially adapt himself or the loss of the job."¹⁹ This category includes the disabled, the elderly, children, and sick persons with no family support. While some Roma experience "social hardship," a majority of Slovakia's Roma fall into the first category, suffering from "material hardship." The analysis in this section focuses on the social protection programs designed to aid these people.

Under the social assistance laws and regulations in place in Slovakia before 1998, the state was required to provide benefits to all persons with income beneath the "life minimum" as defined by law. The law did not draw distinctions based upon the reasons for a person's poverty. The 1998 Social Assistance Act changed this situation. It divided persons suffering "material hardship" into two subcategories: those who are experiencing "material hardship" for "objective" reasons and those who are experiencing "material hardship" for "subjective" reasons. Persons found to be suffering "material hardship" for "subjective" reasons received substantially fewer benefits.

Applicants for assistance were deemed to be suffering "material hardship" for "objective" reasons if they could not secure or increase their income by their own efforts;²⁰ if they were elderly,²¹ disabled,²² or caring for dependent children;²³ if they cared all day for at least one child under the age of seven or one child older than seven who could not be placed in a preschool facility;²⁴ if they had three or more children under the age of 15 and took care of them all day;²⁵ if they had a severely disabled child and took care of him or her all day;²⁶ if they took care of a severely disabled person all day;²⁷ or if they had involuntarily terminated their employment relationship and could prove that they were looking for a new job.²⁸

Applicants for assistance were deemed to be suffering "material hardship" for "subjective" reasons if they did not search for jobs through employment bureaus or other specialized agents;²⁹ if they were removed from the employment bureau's program because they did not cooperate in searching for a job;³⁰ if they had voluntarily and without a serious reason terminated their previous employment or the activity in which they were self-employed; if they had been fired for inadequate work performance, for breaches of work discipline, or for other reasons;³¹ if they had not paid unemployment insurance

in the last three years;³² if they did not pay child maintenance obligations or did not fulfill their financial support obligations toward a spouse, an ex-spouse, or an adult child unable to take care of himself or herself;³³ if they failed to pursue all legitimate claims and exercise all legal rights, especially for subsistence allowances, sickness benefits, pension security benefits and state social benefits;³⁴ if they did not pay their health care insurance;³⁵ or if they neglected their children.³⁶

Long-term unemployed — persons formally registered as unemployed for more than 24 months — are also deemed by law as subjectively poor.³⁷ If such persons find employment, work for more than three months, and lose their job again, they are allowed to reregister with the unemployment assistance office, and receive a new 24-month period before their “material hardship” would be deemed to be for “subjective” reasons. Those who worked at jobs for less than three months would effectively stop the 24-month count-down for the duration of this employment; but it would begin again from the same point as soon as they became unemployed again.³⁸

This 24-month rule appears to have had a significant impact on the percentage of persons who have qualified for assistance for “subjective” rather than “objective” reasons. The 24-month rule came into effect as of 1 July 2000, two years after the Social Assistance Act entered into force. Although the total number of recipients of social assistance benefits increased by 7.6 percent from December 1999 to December 2000, the number of recipients of social assistance benefits for “subjective” reasons increased by 67 percent. Since there have been no major changes in Slovakia’s economic system or in the behavior patterns of the poor generally, it appears that the 24-month rule has increased the percentage of people deemed to be experiencing “material hardship” for “subjective” rather than “objective” reasons.

Growth in Percentage of Social Benefits Recipients for Subjective Reasons between December 1999 and 2000³⁹

Year	Total number of Social Benefits Recipients	Total number of Social Benefits Recipients for Subjective Reasons	Percentage of Social Benefits Recipients for Subjective Reasons	Percentage Change in Total Number of Social Benefits Recipients	Percentage Growth in Social Benefits Recipients for Subjective Reasons
1999	296,604	82,626	27.9%	—	—
2000	319,231	148,729	46.6%	7.6%	67.0% ⁴⁰

2.2. Discrimination in hiring and Romani poverty

Widespread racial bias against Roma in Slovakia's labor market has made it difficult for them to secure jobs for significant periods of time. Romani NGOs claim that "the color of the skin . . . [is] one of the decisive feature [s] for being accepted for a job, . . . [is] a reference about the responsibility and honesty of a job applicant, . . . [and is] a decisive element in dismissing employees . . . [and in conducting] business."⁴¹ Racial bias in the labor market hits the better-educated Roma particularly hard; although these people have skills, discrimination makes it difficult for them to find jobs and make a decent living.⁴² Given the challenges of finding and keeping long-term employment, it is not surprising that many Roma find themselves needing social assistance of one form or another.

Human rights organizations and sociologists have repeatedly noted cases in which Roma were denied work on the basis of race. An employee of the local labor office in Nalepkovo, a town in the Spis region, said he knew of an employer who hired a non-Romani man for a job even when there was a young Roma who had shown an interest in the position and had training for it.⁴³ Roma from Demeter (Kosice) told the League of Human Rights Advocates that one employer, who had advertised job openings, turned them away as soon as he saw that they were Roma and told them that the job had just been filled.⁴⁴ The authors of a recent study of social and living conditions in a Romani settlement noted that their Romani subjects frequently complained about being discriminated against in the labor market and that this type of discrimination bothered them most.⁴⁵ A non-Romani employer, an engineer named Sabo from Trebisov, said that if a Roma received a job that required manual labor, he would be given the hardest work and would be, in most cases, paid the least: "Equal pay for the same job done by a Roma and a non-Roma does not exist."⁴⁶ *National Geographic* magazine quoted a Romani man from Hermanovce: "The last time I worked was in about 1989. I think. I was digging ditches. No one wants to employ us. We go to the employment office in the city looking for work. But when they see we're Gypsies they don't want us."⁴⁷ Professor Stefan Markus, the director of the Slovak Helsinki Committee, said: "When Roma go for work here in Slovakia, they are second-class or third-class citizens; employers are very biased."⁴⁸

Intergovernmental bodies and foreign governments report widespread racial bias against Roma in Slovakia's labor market. The United Kingdom's Refugee Council published statements by a Romani from Slovakia who spoke about his increasingly desperate search for work: "After a few months of trying [for a job, after coming back home from Bratislava] I got work as a barman in a small bar. I think, because I have a light skin color, the bar owner didn't realize I was Roma. I was working very hard and my boss liked my work. . . . Some customers started making comments about my color. . . . [I]n the end the boss asked me if I was Roma. I said 'Yes' [and] . . . the boss asked me to leave. . . . I was then unemployed for 18 months. . . . [T]hen I worked as a truck driver. . . . [M]y boss called me

in and said that the other drivers had complained that he was employing a Gypsy, and that he didn't want me to work for him anymore. . . .[H]e didn't want any trouble and wanted me to leave for the sake of peace."⁴⁹

The Council of Europe's Commission against Racism and Intolerance (ECRI) has found that discrimination plays a large part in the high unemployment rates of Roma.⁵⁰ The Council noted in early 1998 that "state job centers have no hesitation in producing lists of vacancies marked 'no-Roma' and take no steps against employers with discriminatory recruitment practices."⁵¹ The U.S. Department of State annual report on human rights practices for Slovakia has drawn conclusions similar to those of the ECRI.⁵²

In 1999, government officials disclosed that local labor offices categorize job seekers on the basis of race. The director of Slovakia's National Labor Office, Jaroslav Sunny, publicly stated that Labor Office employees routinely marked "R" on Romani applications, without the consent or knowledge of the person concerned. He has defended the practice, saying that the measures do not constitute discriminatory treatment and that they are implemented because of the "complicated social adaptability" of the group. This practice, according to Sunny, helps Slovakia receive EU funds aimed at assisting the Roma.⁵³ The practice of marking documents with an "R" is reported to have been abandoned;⁵⁴ but in some places, the system now functions in reverse and officials write "B" for *biely* ("white") on non-Romani applications.⁵⁵ Although the government no longer publishes racial statistics, many local social assistance centers continue to track the ethnicity of their clients. "All social assistance offices keep statistics along ethnic lines. When we, researchers, ask for them, the first reaction of the offices is to claim that they do not have this kind of information anymore, but they all end up giving it to us," says the director of the Center for Social Policy Analysis.⁵⁶ Another sociologist notes that "when it comes to information related to Roma as beneficiaries of social welfare, a lack of transparency may be observed. Officials say that such data is not recorded, because registering the number of Gypsies or completing data with notes about the ethnicity of the claimants is prohibited by law. In spite of these obstacles, we had access to some data. . . ." ⁵⁷

Some local officials have shown little sympathy for Roma excluded from the labor market. For example, Roma in Spissky Stvrtok complained that private employers requested that the unemployment office refrain from sending Romani job seekers because they would not be hired. The local authorities reportedly responded to Romani complaints by saying "private companies have the right to employ whomever they want."⁵⁸ These practices take place despite the fact that Slovakia's Labor Law forbids discrimination on the basis of race or ethnicity.⁵⁹

Discrimination in the labor market creates a multitude of problems for the Romani community. If those Roma who have skills cannot find and retain good jobs, then it is less likely that other Roma will invest their time, energy, and limited funds in improving their education and training. If Roma cannot get jobs, then they are forced into the

social assistance system. If Roma cannot find suitable employment and social assistance benefits are insufficient, then they are likely to try to move to other countries where there are jobs, so that they can provide for themselves and their families.⁶⁰ Thus, reducing discrimination against Roma in the labor market would go a long way in addressing many of the difficulties faced by the Romani community.

3. Social Assistance Programs

Slovakia's Constitution guarantees the right of any person in need to receive the assistance necessary to ensure basic living conditions.⁶¹ The Social Assistance Act governs the administration of many of the public benefits provided to persons experiencing material or social hardship.⁶² Other laws, such as the law on child allowances and the law on housing allowances, provide additional benefits to those suffering from "material distress." All citizens, stateless foreigners, refugees, displaced persons, and lawful residents of Slovakia are eligible for assistance if they meet the legal requirements.⁶³

While only a handful of Roma fit into the "social hardship" category, most poor Roma suffer from "material hardship." This section's analysis focuses on the social protection programs designed to aid Roma in material hardship or distress.

The Social Assistance Act establishes the kinds and amounts of benefits available to persons in material distress. The benefits include payments, in money or in kind, that are supposed to cover basic requirements for food, clothing, and shelter; grants or loans to pay for basic furnishings; and social services such as nursing and transportation.⁶⁴ The maximum amount of benefits is approximately one-third of the country's average gross monthly wage, which, in 1999, was 10,728 Sk (U.S. \$268).⁶⁵ The law drastically curtails the amount and type of benefits available to those persons deemed to have "subjective" reasons for material hardship. According to the Ministry of Labor, Social Affairs and Family, the total number of people in Slovakia who benefited from social assistance programs — including direct recipients and their family members — was more than 600,000 in 2000.⁶⁶

3.1. Social benefits

The Social Assistance Act directs the state to provide social benefits so that citizens who suffer from material hardship can secure the basic requirements of life: one hot meal a day, clothing, and shelter.⁶⁷ They are, as a rule, cash transfers; but the government can also provide them in material form⁶⁸ if a beneficiary has not used previous cash grants in accordance with the purpose for which they were provided or for the benefit of all those entitled to them.⁶⁹

The amount of social benefits varies for those persons deemed to have "objective" and those deemed to have "subjective" reasons for their poverty. Most claimants who are determined to qualify for benefits for "objective" reasons receive the difference

between 100 percent of the minimum subsistence level and their income,⁷⁰ while those determined to qualify for “subjective” reasons receive the difference between only 50 percent of the minimum subsistence level and their income.⁷¹

Starting in January 2001 the income of an adult claimant who is in material need for “objective” reasons is supplemented by social assistance payments of up to 3,490 Sk (U.S. \$87.18). The persons who live in the same household as the beneficiary are supplemented up to 2,440 Sk (U.S. \$60.95). A claimant deemed to qualify for assistance for “subjective” reasons receives the difference between his income and 50 percent of the minimum subsistence level (3,490 Sk for the main beneficiaries and 2,440 Sk for adult dependants). The overall levels may be adjusted as of July 1 every year.⁷²

3.2. **Benefits for children and parents**

The state pays up to 2,440 Sk (U.S. \$60.95) for each child cared for within the family and up to 1,580 Sk (U.S. \$39.47) for institutionalized children, regardless of whether the parents or guardians are deemed to qualify for assistance based upon “objective” or “subjective” reasons.⁷³ The state also pays lump-sum benefits to parents so that they can pay expenses related to child activities, such as equipment for holiday camps, school lessons, and certain courses and treatments. But the state makes these additional kinds of payments only to citizens who suffer from material hardship for “objective” reasons. Those persons who are deemed to qualify for assistance for “subjective” reasons are ineligible for lump-sum payments, even if their children have the same amount of need. It is arguable that this differentiation violates the rights of children to benefit from social protection⁷⁴ as well as the nondiscrimination principle of the UN Convention on the Rights of the Child.⁷⁵

The municipality may grant lump sums up to the level of actually provable expenses.⁷⁶ Social benefits and lump sums are not exclusive.⁷⁷ The municipality decides whether to grant lump-sum benefits⁷⁸ as well as whether a citizen has an obligation to repay it fully or partially if the lump sum has been paid wrongly or at a higher rate than prescribed.⁷⁹

3.3. **Benefits for furnishings and utilities**

The state may provide additional social assistance benefits in the form of lump-sum payments⁸⁰ or “social loans”⁸¹ to assist beneficiaries in acquiring basic furnishings. The lump-sum payments are aimed at covering the purchase price of basic household conveniences,⁸² which include a bed, a table, a chair, a wardrobe, a heating unit, a stove, a refrigerator, and a washing machine, if these are not otherwise provided.⁸³ The social loans are interest-free⁸⁴ cash transfers aimed at covering the cost of repairs, for example, the mending of a roof, or the cost of electricity, water, and gas.⁸⁵ Municipalities grant social loans⁸⁶ to persons who suffer from material hardship for “objective” reasons, and not to those living in poverty for “subjective” reasons.⁸⁷

4. Impact on the Roma of Eligibility Requirements and Recipient Responsibilities

Many of Slovakia's Roma suffer from indirect and direct racial discrimination while seeking social assistance benefits. The laws and regulations governing social assistance have a disparate impact on the Roma. Government officials could justify the disparate impact of such policies by showing that the policies are reasonable and objective and pursue a legitimate aim. But the arguments Slovakia's officials offer up do not appear to justify the treatment the Roma are receiving. Furthermore, there are credible reports that some officials have discriminated directly against Roma on the basis of race in considering their applications for social protection benefits. Direct discrimination on racial grounds is always unjustifiable, indefensible, and illegal.

4.1. Objective and subjective reasons for material hardship

As described above, the 1998 Social Assistance Act created two categories of persons who can receive social assistance benefits. The differences between these two categories are based upon the reasons for their material hardship or distress. Those who qualify for benefits because their material hardship is caused by "objective" reasons include persons who take care of dependent children or adults, are elderly or disabled themselves, or are unable to secure or increase income by their own efforts. Those people who qualify because their material distress is caused by "subjective" reasons include, among others, persons who have been unemployed for more than 24 months, those who have not cooperated with or worked through employment agencies, those who have not contributed to unemployment insurance or child or spousal support over certain periods of time, and those who have allegedly neglected their children. The state provides significantly fewer benefits to those who are in material distress for "subjective" rather than "objective" reasons.

This "objective-subjective" distinction leads to indirect discrimination. It has a disparate impact on the Roma relative to similarly situated non-Roma because it depends upon categorizations based on characteristics that are typical of certain social groups where Roma are overrepresented (i.e. long-term unemployed) and these categorizations are used to determine benefit levels. This distinction also gives local officials broad discretion in determining whether a person is materially poor for "subjective" reasons. And Roma report many abuses in these determinations.

4.1.1. Indirect discrimination

The "objective-subjective" distinction is, on its face, a neutral classification that seems to apply to all applicants for social benefits regardless of their ethnic background. In practice, however, it is a form of indirect discrimination because it has a disproportionately negative impact on Romani claimants as compared to non-Romani claimants.

To establish a *prima facie* case of indirect discrimination, one must show that a distinction has a disparate impact on a protected group. In this case, disparate impact is

found when the categorization affects a significantly higher percentage of poor Roma than poor non-Roma. It is not necessary to prove that Slovakia’s parliament adopted the law with an intent to discriminate against Roma. It is sufficient to demonstrate that the implementation of the law has a discriminatory effect.

It can be argued that a rule which drastically limits the social benefits of the long-term unemployed has a disparate impact on the Romani community. According to statistics from the Ministry of Labor, Social Affairs and Family, approximately 530,000 persons were considered unemployed in Slovakia in 1999; about 25 percent of these people, or just over 130,000, were Roma. Approximately 140,000 of these unemployed persons had been without work for more than 24 months; but about 45 percent of these people, or just over 60,000, were Roma. Thus, Roma comprised about 45 percent of those persons deemed eligible for benefits because they were suffering material hardship for “subjective” reasons under the 24-month rule, while Roma accounted for only about 25 percent of those deemed eligible for benefits because they were suffering material hardship for “objective” reasons. The “objective-subjective” distinction clearly has a disparate impact on economically disadvantaged Roma in comparison with people of different racial and ethnic backgrounds at similar economic levels.

Unemployment by Duration of Time Unemployed (as of 30 June 1999).

Duration of Unemployment	Total Unemployed	Romani Unemployed	Romani Percentage of Total Unemployed
For less than 6 months	194,737	10,380	5.33%
For more than 12 months, but less than 24 months	194,657	59,176	30.40%
For more than 24 months, but less than 48 months	100,020	40,922	40.91%
For more than 48 months	42,861	22,399	52.26%

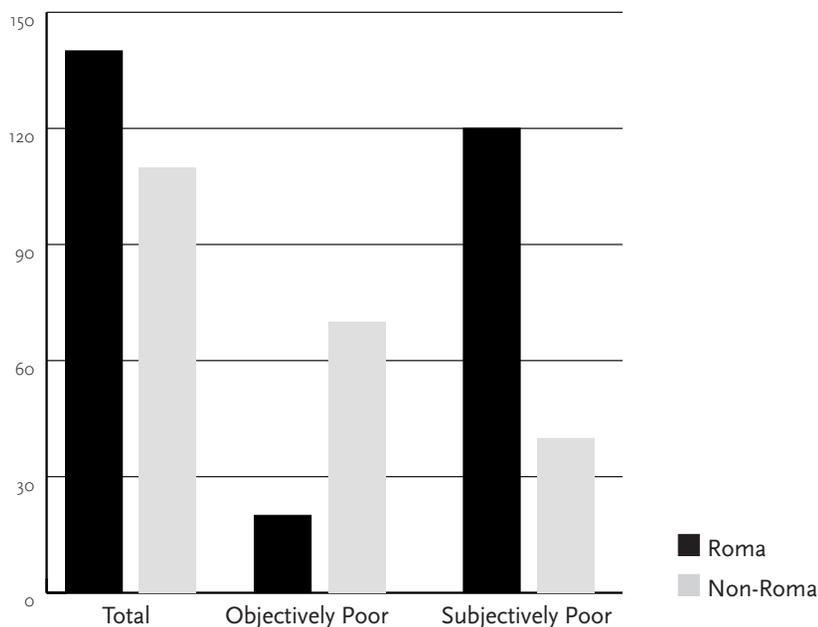
Source: Ministry of Labor, Social Affairs and Family of the Slovak Republic⁸⁸

It is probable that the number of long-term unemployed Roma has increased since 1999. If, in the past two years, Roma have found it more difficult than Slovakia’s majority population to find jobs, then a greater number of Roma, and a greater percentage of Roma relative to the majority, would trip the 24-month switch and would receive only the benefits provided to persons deemed to be suffering material hardship for “subjective” reasons.⁸⁹

In Slovakia, one of every ten persons is a Roma,⁹⁰ one of every four unemployed persons is a Roma, and one of every two long-term unemployed persons is a Roma.⁹¹ Thus categorizations on the basis of the length of unemployment are bound to have a disparate impact on the Romani community.

Case studies provide additional support for a prima facie case for the disparate nature of the impact of the “objective-subjective” distinction. Since the government claims to no longer collect data based on ethnicity, an example from a single town, Banska Bystrica, offers one of the rare opportunities to obtain a sense of the way in which the implementation of the “objective-subjective” distinction has discriminated against Romani applicants for social assistance. Banska Bystrica is home to about 5,000 Romani adults and children. Most of these Roma are employed or self-employed, and their situation is relatively good compared with the living conditions of Roma in Eastern Slovakia. Only 20 percent of the Roma in the town are eligible for social assistance benefits. “I am responsible for the files of 250 families who receive social assistance benefits,” explained one of the local social workers. “Ninety of them are considered poor for objective reasons and 160 for subjective reasons. As far as the ethnic structure of each subcategory, out of the 90 there are 20 Romani families and 70 non-Romani while within the second group the proportion is reversed: out of 160 subjectively poor, 120 are Roma and only 40 non-Roma.”⁹² Thus, in this instance, the benefits were cut in half for approximately 85 percent of the Roma, but only 35 percent for non-Roma.

Disparate Impact of the Objective/Subjective Distinction on Romani Claimants for Social Benefits in Banska Bystrica:



Anecdotal evidence from other areas of the country supports the assertion that these provisions have a disparate impact on the Roma. The Minoritas Association, a Canadian-financed project with a long presence in the region, reports that all beneficiaries of social benefits in Svinia, a Romani settlement of more than 650 people, were deemed to be suffering material hardship for “subjective” reasons.⁹³ The same applies to the 300 Romani inhabitants of Hermanovce⁹⁴ and the 100 Roma of Chminany.⁹⁵

The poverty and suffering caused by the “objective-subjective” distinction have triggered protest by human rights NGOs and Romani communities, which have pointed out that its implementation has a disparate impact on Romani families.⁹⁶ On 23 July 1998, more than 100 Roma gathered in Mihcalovce, a town in Eastern Slovakia, to protest against systematic cuts of social assistance benefits. “The cuts,” local Romani leaders told the press, “are specifically aimed at the Romani community. They apply to the long-term unemployed and to those welfare recipients who, labor officials feel, are not trying hard enough to find work.” With high unemployment rates and jobs scarce even for the majority Slovak population, “the Roma’s chances of getting hired are slight.”⁹⁷

Governments can justify differential treatment if they can show that it is objectively justified by a legitimate aim and that the means of achieving that aim are appropriate and necessary. The arguments of the Slovak government in this case, presented below, do not appear to justify the impact that the “objective-subjective” distinction has on Slovakia’s poor Roma. Many of the aims are not legitimate and, in fact, most are not even relevant.

First, the government has said that it is under tremendous pressure to reduce the level of the social assistance benefits granted to Roma because the number of Roma is significantly increasing in Slovakia.

Yet the country’s constitution and its international commitments bind the state to provide for those in material need, regardless of the size of the group or the amount of its need. The mere existence of strong pressure to reduce the size of benefits for a group of citizens is not, per se, a valid justification for the adoption of measures that will obviously have a disparate impact on a particular ethnic group. While public policies should take into account public opinion and political pressures, they cannot violate the antidiscrimination principles in the constitution and international human rights treaties and agreements. One of the purposes of having a constitution and of ratifying international human rights standards is to uphold the rights of a minority in the face of challenges from the majority.

A second government explanation has been that the increase in the country’s unemployment rate has obliged the government to look for ways of motivating people to work.

While the state has a legitimate interest in encouraging people to work, it should not implement punitive measures with a disproportionate impact on a protected group if discrimination in the labor market prevents most members of that group from secur-

ing work. Encouraging unemployed individuals to find jobs is a legitimate aim of social policy. Blaming those who can not find a job makes sense if people have a reasonable chance of securing employment when they make an extra effort in seeking it. However, this is not the case of the Roma, especially those Roma living in the settlements of Eastern Slovakia. Few job opportunities exist for anyone in these places, and the Roma face discrimination that makes it even more difficult for them to find employment. Reducing the level of social benefits is hardly an “appropriate measure” when work opportunities for poorly educated and unskilled individuals are rare and, when such opportunities do appear, the Roma are the last to be considered.

Thirdly, the government claims that social assistance generates dependency for some groups of people who live from birth to death on welfare.

States do have a legitimate interest in discouraging dependence on public welfare programs. Yet they must also help provide persons in need with the opportunities to be independent. As discussed above, the state should take an active role in eliminating the discrimination that prevents Roma from getting jobs and forces them to rely on social assistance to meet their basic needs. The state should also help provide greater educational opportunities to the Roma and other disadvantaged persons, so that they can develop skills that private employers desire. While eliminating benefits ends dependence, it does not address the underlying causes. Therefore, while the goal of ending dependence may be legitimate, the chosen means are not, and therefore the policy is discriminatory.

A fourth defense of the government’s distinctions when providing social assistance has been that most countries have limitations on the periods in which a person can receive assistance.

The fact that other countries place time limits upon social assistance does not justify differential treatment in Slovakia. These countries may have other compensatory mechanisms, which alleviate the impact of the limitations. Alternatively, these countries’ practices may violate domestic and international standards. And just because other countries engage in certain activities does not change the fact that there is a clear consensus that states should not engage in discriminatory practices. By signing the ICESCR and the European Social Charter, Slovakia has agreed to help all of its citizens improve their economic and social situation. The ICESCR and other international commitments require Slovakia not to differentiate — directly or indirectly — among racial or ethnic groups unless it does so for a purpose considered legitimate under the conventions. Emulating the behavior of other countries is not per se a legitimate purpose under the convention. Slovakia should address the challenges the Roma face in the labor market by improving education and training and by fighting job discrimination rather than pointing to other countries that may have different economic conditions and racial compositions.

Finally, the government points to Slovakia’s law that does not oblige beneficiaries of social assistance benefits to perform work in the interest of the community, and this

kind of work obligation cannot be introduced because it will be considered “forced labor,” which is prohibited by the constitution. Furthermore, the government maintains that public works programs,⁹⁸ which hire unemployed persons to perform jobs in the community, might reduce the negative incentive that was intended when the law was passed.⁹⁹

Whether the state can make people work in exchange for social assistance benefits is irrelevant in considering whether it is legitimate under domestic and international standards for a government to distinguish among beneficiaries of social support. The government has an obligation to help these people regardless of whether the state can force them to perform labor. Supposing for a moment that making people work in exchange for benefits did not violate Slovakia’s constitution, it would still seem discriminatory, unfair, and wrong to make one class of beneficiaries, a class that includes most of the members of one ethnic group, perform work. Slovakia should, once again, address the challenges facing the Roma by improving education and training and by fighting job discrimination rather than by suggesting that they are entitled to fewer benefits because the state cannot make them work.

Furthermore, there is little information on the number of Roma who have actually found jobs with public works programs or how long they have worked for them. Some Roma, especially those involved in such programs, consider them successful.¹⁰⁰ Others have pointed out that the number of Romani job seekers employed by public works programs is statistically insignificant compared to overall Romani unemployment,¹⁰¹ and that, instead of functioning year round, the programs lay workers off in the winter months when they need employment most.¹⁰² Many Roma also stated that they had applied to participate in the programs but were rejected;¹⁰³ they accused their mayors and the chairmen of their local councils of corruption in hiring workers for these projects.¹⁰⁴ After an enthusiastic launch, the public works programs slowed down due to budget cuts.¹⁰⁵ Finally, the existence of these programs is not, per se, a valid justification for the adoption of categorizations and measures that will obviously have a disparate impact on a particular ethnic group. While these programs may help some Roma, they do not relieve the government of its obligation to help all of its citizens improve their economic and social situation in a nondiscriminatory manner.

In sum, the government’s arguments as to the legitimacy, reasonableness, and objectivity of the “objective-subjective” distinction are insufficient to justify the harm it inflicts upon a protected category of people. This distinction is indirectly discriminatory to the Roma, and the government should revise it.

4.1.2. Direct discrimination

Illegalities and abuses taint the process used for assessing Romani applications for social assistance benefits. Although it may be straightforward for social workers to determine whether a person has been registered with the unemployment office for more than 24-

months, it is more difficult to evaluate other factors in an unbiased way. For example, how do social workers determine whether an applicant has left his or her previous job voluntarily for a “serious” reason, whether or not the applicant has cooperated with the employment office in searching for a job, and whether the applicant has fulfilled all of his or her obligations to dependents? Local officials have broad discretion in making these and similar determinations. And this discretion has allowed them to discriminate directly against Roma while using formal yet vague criteria for their assessments.

Inforoma, a Romani NGO in Slovakia, carried out a project in the Presov district during the first three months of 2000 that shed light on this practice.¹⁰⁶ The organization assisted Romani families who were filing complaints about decisions by local social assistance offices on their applications for benefits. The local offices had determined, on various grounds, that 25 applicant families were suffering material hardship for “subjective” reasons. Seventeen of these families filed complaints, and in 12 cases it was found that the local office’s decision was erroneous.¹⁰⁷ In Chminany, a Romani settlement of 18 households, 12 families filed complaints about the local office’s determination of the level of their assistance, and the determinations for 11 of them were found to have been erroneous and in violation of the law.¹⁰⁸ In other words, between 70 to 90 percent of the decisions on Romani applications have been found to be abusive.

Inforoma found that, in many instances, the officials who made these determinations suffered no consequences. Local-level social workers justified their decisions by saying that they were acting in accordance with “implementation instructions” from the regional office. Officials at the regional office said they were not responsible for the erroneous determinations about the Romani applications for assistance because an earlier managerial team, which was appointed under the government of Prime Minister Vladimir Meciar, had elaborated these “instructions” in the summer of 1998.¹⁰⁹

It is illegal for social workers to discriminate against applicants for social assistance on the basis of their race. These examples show that local officials have broad discretion in their determination of the cause for an applicant’s material hardship. It would be helpful for researchers to gather more data about how social workers treat Romani and non-Romani clients in order to establish the full extent of abuse of authority by social workers. Regardless of the findings, Slovakia must install effective, prompt, and affordable appeals mechanisms. Furthermore, the government has an obligation to investigate such cases and to take appropriate disciplinary or legal action against officials who discriminate and those who fail to enforce antibias regulations.

4.2. Means test

Slovakia does not provide social assistance to persons who can support themselves by drawing on their savings or on income from their property.¹¹⁰ Property means movable and immovable assets, rights, and other items of material value.¹¹¹ Citizens whose income

is below the minimum level are expected to use, manage, sell, or lease their property.¹¹² Persons who possess property and do not exploit it to care for their needs are not eligible for social benefits. They are not considered as truly being in a situation of material hardship. The government does not require them to sell or lease the house or the flat in which they live,¹¹³ agricultural and forest land they use to provide for their own needs,¹¹⁴ movable assets that constitute necessary parts of the households,¹¹⁵ movable or immovable assets necessary for performing their work or for professional training,¹¹⁶ a personal car if it is used for the transport of a severely disabled person¹¹⁷ or if it is more than five years old and its value is not higher than 100,000 Sk (approximately U.S. \$ 2,500),¹¹⁸ or movable assets that cannot be sold or leased without breaching moral principles.¹¹⁹

The means test does not discriminate against Roma on its face, nor should its provisions be cited to discriminate against the Roma in practice. However, Roma allege that administrators use their investigative powers to find ways to exclude Roma from benefits rather than to validate their claims. More research is necessary to determine how widespread these practices are and whether social workers treat the Roma differently from other similarly situated persons. If social workers do assess the Roma differently using the means test, then they are engaging in illegal discrimination.

4.3. Residence requirements

To qualify for social assistance benefits, a claimant in Slovakia must present his or her identity card to the appropriate authorities.¹²⁰ The police issue this identity card only if the person concerned owns a house or a flat or has the written permission of the owner of a house or flat to reside in it. The state imposes this requirement for administrative reasons in order to link each person in Slovakia to an address. A person seeking social assistance benefits must register with the unemployment offices responsible for the place where he or she is officially considered a permanent resident, even if he or she really lives somewhere else.¹²¹ For many Roma, these requirements are difficult to meet.¹²²

Before the dissolution of Czechoslovakia in January 1993, all citizens had an identity card. These cards gradually expired, and the governments of the Czech Republic and Slovakia replaced them with new identity cards, Czech or Slovak, depending on the citizenship of the person in question. These changes caused no problems for Slovaks in Slovakia or for Czechs in the Czech Republic, but they imposed hardship on those living in a “foreign” land, particularly on the Slovaks living in the Czech Republic.

In 1993, Czech citizenship regulations deemed the majority of Roma living in the Czech Republic to be Slovak nationals and imposed restrictions that effectively barred their access to Czech citizenship. When their federal cards expired, many of these people had problems securing Slovak passports. Although they were *de jure* Slovak citizens, they became *de facto* stateless and were instructed to go to Slovakia.¹²³ Most of those who remained were expelled to Slovakia after committing minor misdemeanors, and they lost

any right to return.¹²⁴ Once in Slovakia, they went, as a rule, to the East, to the segregated settlements, where they could eventually find some relatives, friends, or could improve a shelter in which to live. They were caught in a situation in which they had no papers at all, or had Slovak passports but no official residence in Slovakia because they had been living in the Czech Republic. They had to face the new challenge of persuading local officials to register them as permanent residents so they could obtain Slovak identity cards.

In Eastern Slovakia, officials often refuse to register Roma as residents. Local authorities and non-Romani inhabitants harass local Roma, pressure them to leave, or simply expel them. Human rights organizations have extensive documentation of systematic local efforts to “get rid of” the Roma. Two municipalities even passed ordinances prohibiting Roma from residing on their territory before the UN Committee on Racial Discrimination ruled, in September 2000, that these ordinances violated the rights of the Roma to freedom of movement and residence. The Committee urged Slovakia to eliminate such practices fully and promptly.¹²⁵ The housing section of this report will further examine Romani residence issues, including legal provisions, jurisprudence, and practice.

Young Romani women who marry Romani men from different villages, towns, or cities face special challenges in obtaining identification cards. As a rule, a wife moves into her husband’s house; therefore, she is obliged to change her official place of residence to her new address. Because it is very difficult for Romani women to obtain this official address change, their access to social assistance is essentially barred. The more affluent of these Romani wives travel back to their former place of residence once or twice a month to pick up their benefits. The Legal Defence Bureau in Kosice reports that the mayor of Turna nad Bodvou had refused to register one Romani woman from Saca who married a male resident in Turna nad Bodvou; the mayor even refused to provide an explanation for his decision. As a result, the woman could not obtain social assistance benefits and health care services in her place of residence.¹²⁶

Traveling to their old place of residence is hardly an option for Romani women who lived in the Czech Republic before they married men from Slovakia. The Slovak Helsinki Committee reported the case of a Romani woman who was refused access to social assistance benefits for six years because the local authorities in Jarovnice, a village in Slovakia, refused to register her as a resident, even though she was living in her husband’s house with their three children. The mayor reportedly told the woman’s Helsinki Committee lawyer that “[Ginova] is not our resident. Let her go where she comes from — we don’t want her here — or take her with you to Bratislava. The best would be to take all the Gypsies with you.”¹²⁷

Further comparative research is necessary to determine whether and to what extent the percentage of the Romani population without official residence status in the places where they de facto live is greater than the percentage of the non-Romani population without it. The refusal of local authorities to grant residence to Romani newcom-

ers, combined with the rigidity of social assistance regulations that do not permit the payment of benefits by the office of de facto residence, appears to bar, or at least substantially impede, the access Roma have to benefits. Ultimately, poor Roma — the ones who most need social assistance — are the ones least likely to establish residence in order to comply with the legal requirements for the benefits.

5. Other Barriers to Social Protection

5.1. Illegal retrospective application of Social Assistance Act requirements

Under the Social Assistance Act, all persons registered as unemployed for more than 24 months are deemed to be suffering material hardship for “subjective” reasons. This entitles them to social benefits payments that are significantly lower than those provided to persons suffering material hardship for “objective” reasons. The Act took effect on 1 July 1998, and the 24-month rule was supposed to take effect only after the first 24-month period had expired.

However, some social assistance offices applied the 24-month rule the moment the law entered into force in July 1998, and this affected the overwhelming majority of the Romani job seekers from segregated settlements in Eastern Slovakia. Lawyers from the Slovak Helsinki Committee reported that local offices in Presov, a district in Eastern Slovakia, applied the 24-month requirement immediately, thereby reducing the social assistance benefits of those persons who had been registered as unemployed before 1 July 1996. The social assistance office serving the Romani settlement in Hermanovce also began slashing benefits in the summer of 1998, which gradually affected all adult inhabitants.¹²⁸ Soon all Romani families in the region were deemed to be suffering material hardship for “subjective” reasons.¹²⁹ Application of the law to the period before 1 July 1998 sanctioned people who could not foresee that the preceding length of their unemployment period could directly affect the level of their benefits.

It was manifestly unfair to cut benefits by up to 50 percent immediately for all persons suffering from material hardship, Roma and non-Roma alike. Furthermore, it was illegal. Through international agreements such as the ICESCR and the European Social Charter, Slovakia agreed to help all of its citizens to realize their economic and social rights. Furthermore, as discussed above, it is highly doubtful that slashing social assistance benefits in a discriminatory manner can be justified as legitimate, reasonable, or objective. Cutting assistance to these persons without any prior notice is particularly punitive, and the lack of notice may have violated due process rights for those people who were receiving entitlements.

5.2. Imposition of additional extralegal requirements for social loans

As noted above, social loans are interest-free cash transfers aimed at paying for repairs or for the purchase of basic household conveniences. Local authorities grant these loans only to those persons who are eligible for social assistance benefits and suffer from material hardship for “objective” reasons.¹³⁰ Social loans are not made to persons found to be suffering material hardship for “subjective” reasons.” It has already been demonstrated that Roma are overrepresented within the group of indigents for “subjective” reasons and that limiting access to benefits according to the objective/subjective categorization leads to indirect discrimination. It follows that current rules for granting social loans are also discriminatory, because they bar the access of Romani indigents to loans to a greater extent than they do for indigents belonging to the majority population.

Some municipalities impose additional conditions that deny social loans to Roma even when they have been found to be suffering material hardship for “objective” reasons. For example, the municipality in Nalepkovo offers social loans to young families, but only if both the husband and the wife are employed.¹³¹ These provisions effectively exclude the municipality’s entire Romani community, because the overwhelming majority of Romani men and all of the Romani women are unemployed. Ironically, Romani tenants who do not receive loans to repair their houses are evicted, and then the municipality gives social loans to non-Romani couples to buy and repair the same houses.¹³²

Local governments may have some discretion in establishing additional requirements for how they choose to disburse their own funds. But they are still subject to the same antidiscrimination standards as the national government. Therefore, it is illegal for local governments to impose regulations that effectively discriminate on the basis of race. It would be helpful for researchers to identify communities in which municipalities have policies on social loans that effectively treat Roma and non-Roma differently. Meanwhile, the government of Slovakia has an obligation to investigate and to punish those local governments, agencies, and persons who discriminate, those who are complicit in discrimination, and those who fail to enforce antibias regulations.

5.3. Denial of social benefits for Romani returnees

In 1998 and 1999, thousands of Roma left Slovakia and sought asylum in Western European countries. Many European Union member states denied the asylum claims brought by these Roma and returned them en masse to Slovakia, sometimes under degrading conditions.¹³³ Furthermore, several EU member states ended their visa waiver programs with Slovakia. Many Slovaks were angry with the Roma because they believed that the Roma were not subjected to discrimination in Slovakia,¹³⁴ had headed to the West for purely economic reasons, and received significant financial advantages from Western welfare systems. As a result, ethnic tensions increased. Slovak politicians blamed the Roma for the

visa policy changes implemented by the EU states. Claiming that Roma had destroyed Slovakia's image, they called for legal measures against Roma who returned to Slovakia. Several political leaders urged the Ministry of Labor, Social Affairs and Family to punish Romani families by denying them social assistance benefits when they came back to the country.¹³⁵

Roma returning to many municipalities in Eastern Slovakia found that these threats were a reality. Social workers denied them access to social assistance benefits, frequently refusing to give them application forms, and telling them that it was useless to apply because they were not suffering "material hardship."¹³⁶ The International Organization for Migration (IOM), which took charge of monitoring the Roma returning to Slovakia, reported that in Eastern Slovakia some social assistance offices followed a clear procedure in dealing with applications for benefits submitted by returning Roma. First, the authorities gathered information on the level of benefits received by asylum seekers in each of the countries where Roma from Slovakia went. When Romani families returned from abroad, social workers asked them where they had resided and how many months they had stayed there. Based on this information, the social workers calculated the amount of money they presumed each family possessed. On this basis, they rejected claims for social assistance, arguing that Romani families were not facing "material hardship." Rarely did they take into account the costs incurred by the Romani families while they lived in other countries and while they traveled to and from those countries.

The IOM reported that social workers from Kezmarok systematically denied Romani families returning from Finland access to benefits.¹³⁷ Roma from the region described their return to Slovakia: "They [the social workers] asked me to sign a paper that I was in Finland," said Ms. Tokarova from the village of Michalovce. "And then they calculated something and told me, 'You should have at least 300,000 Sk (U.S. \$7,500). You do not need social benefits.' They did not want to know how much I received in Finland and how much I had to spend on food and clothing and housing for my children. They did not want to take into consideration that I did not apply for benefits immediately when I returned. I used my money economically and only when there was no more left, did I have to go back on social assistance."¹³⁸ Michal Lacko, a Romani man from Pavlovce nad Uhom who came back to Slovakia after having his asylum request rejected, alleged that the local social assistance office "calculated" that after his trip to Finland he must have had at least 100,000 Sk (U.S. \$2,500), and therefore he was not considered to be facing material hardship.¹³⁹

The Ministry of Labor, Social Affairs and Family maintains that the national government does not require or encourage such practices, and that there are no special regulations on assessing the assets of Roma who had unsuccessfully sought asylum abroad and returned to Slovakia. "Romani returnees are obliged to list their financial situation just like anyone else," a ministry official said.¹⁴⁰

Misinterpretation of legal provisions has also resulted in the denial of social assistance benefits to returning Roma. For example, the law requires persons receiving social assistance to confirm regularly and in person that they continue to be unemployed and are searching for a job; those persons who do not do so are deemed to be suffering material hardship for “subjective” rather than “objective” reasons, and their benefits are consequently less. Some social assistance offices ruled that Romani applicants who had been absent from the country for a period of several months had, as a result, failed to show up to confirm that they were unemployed and seeking work; these persons had their benefits totally cut, and not only reduced as law requires.¹⁴¹ This decision went beyond anything the law provides. There are also allegations that some local offices denied allowances to Romani children born abroad.¹⁴²

The IOM has found other examples of misinterpretation of the law that were clearly intended to deny benefits to returning Roma on a racial basis. Under the existing regulations, parents who neglect their children are considered to be suffering material hardship for “subjective” reasons if parental neglect prompts legal action that limits parental rights or the placement of a child in a foster home or an institutional care facility. Social workers in some eastern municipalities, however, decided that Romani parents who traveled abroad without all their children effectively “neglected” the children who remained in Slovakia, and therefore should be deemed “subjectively” poor. Romani parents have protested, but to little effect. They have argued that such determinations must be made on a case-by-case basis and that, in some instances, it might have been in the children’s best interests to leave them in the care of grandparents or other relatives while the parents sought opportunities abroad. Social workers interviewed by the author confirmed that social assistance offices generally adopt the view that, to fulfill the requirement on childcare, Romani returnees “should have taken all their children with them” when they went abroad.¹⁴³

On 7 March 2001, a representative of the Ministry of Labor, Social Affairs and Family told the author that the ministry was facing tremendous pressure to reduce social benefits to returning Roma and had developed special instructions — internal, unpublished documents — for its territorial offices on how to deal with claims by returnees for social benefits.¹⁴⁴ A few days later, after failing to provide a promised text of the instructions, the same ministry representative stated that no such instructions existed and that local offices process applications for social benefits in the same manner for all applicants, including Roma returning from abroad.¹⁴⁵

Regardless of whether there is or was an official policy, these practices discriminate against Romani returnees. There are no reports that government agencies have similarly scrutinized and sanctioned non-Roma who left the country and returned. If a specific policy against the Roma who left and returned exists, then this policy would constitute direct discrimination. If such a policy exists against all persons who sought asylum in

other countries, then this policy has had a disproportionate impact on the Roma and has led to indirect discrimination.

The government will have difficulty maintaining that this type of policy is legitimate, reasonable, or objective. Even if there is no explicit official policy, local officials are discriminating against the Roma and abusing their authority. The government of Slovakia has an obligation to change these policies and/or eliminate discriminatory practices, ensure equal treatment for all persons who apply for benefits, and to investigate allegations of abuse and, if necessary, take punitive action against officials who engage in racial discrimination.

5.4. **Lack of knowledge about programs**

Some Roma may not know of the existence of particular social assistance programs or whether they qualify for these programs. Romani activists assert that some social assistance offices have not informed, or misinformed, Romani families about the existence of social loans and the possibility of qualifying for them. For example, one Romani leader in Jarovnice told the author: “A few years ago in 1997, I got a loan of 25,000 Sk, but in 1999, when I asked again, they [the social assistance office] told me that the loans had been abolished. . . . They did not tell me anything about objectively poor or subjectively poor; they just told me that social loans do not exist anymore.”¹⁴⁶ Researchers and students working in Svinia¹⁴⁷ and Letanovce¹⁴⁸ said that officials never informed Romani inhabitants about the existence of social loans or how to gain access to them.

At this time, there is not enough evidence to show that social workers systematically fail to inform the Roma about these programs. Investigators should gather more information to determine whether social workers fail to inform the non-Romani poor to the same degree. These social workers would be practicing an illegal form of discrimination if they knew of the programs and did not inform Roma about them or if they informed the Roma to a lesser degree than they informed members of non-Romani groups. It is possible that the social workers themselves do not know of the programs. It is also possible that they think particular persons do not qualify. But social workers are supposed to know about these government programs, and not knowing could constitute negligence.

5.5. **Poor relations between social workers and Roma**

The number of Romani social workers is statistically negligible, and poor relations between social workers and Roma are another significant problem.

Social workers responsible for districts with Romani communities rarely visit the Roma.¹⁴⁹ Research carried on in Bardejov district found that social workers had visited the settlements of Sverzov and Rokyto only two or three times in the last several years and had never entered into Richvald, Gerlachov, Snakov, Fricka, or Nizny Tvarozec.¹⁵⁰ Iveta Radicova, director of the Center for Social Policy Analyses (SPACE), says, “In Slovakia, social work is

done with papers and not with people. During our research on 30 Romani locations, we did not meet a single social worker who had been, even once, in a Romani settlement.”¹⁵¹

As a result, social workers have a low level of understanding of Romani culture, traditions, beliefs, and behavioral patterns. Many social workers exercise their discretion against Roma, it seems, by trying to find new ways of limiting benefits and interpreting the law in a rigid manner without making much effort to assess the real plight of the Romani families. The Roma, in turn, do not trust the social workers. They expect the social workers to mistreat them. They believe that anything they tell the social workers will be used against them. So the Roma try to provide social workers with the minimum amount of information possible. For them, social workers can represent a threat to curtail benefits, to take children away to institutional care, and to impose policies against the Romani community. Many Romani women still remember social workers urging them to undergo sterilization ten years ago.

It is not difficult to see how direct and indirect discriminatory treatment can arise from attitudes and interactions of this kind. Nonetheless, when claims of discrimination are made, it is important that they be investigated thoroughly and impartially.

6. Inadequate Remedies for Racial Discrimination

Racial discrimination generally goes unchallenged in Slovakia, in part because the victims of discrimination do not have effective legal remedies at their disposal. The United Nations Human Rights Committee has noted that independent mechanisms for victims of all forms of discrimination do not exist.¹⁵² Reports by the Council of Europe’s Commission against Racism and Intolerance also make it clear that there are no adequate civil or administrative remedies for racial discrimination in Slovakia.¹⁵³

Decisions related to social assistance benefits are issued in a written form. Individuals may appeal to administrative bodies, and access to courts can be gained after all administrative options have been exhausted.¹⁵⁴ Constitutional protection against discrimination exists, but because it is not reinforced by civil and administrative law, it is highly ineffective in daily practice. It is true that Article 11 of the Civil Code protects life, health, civil honor, human dignity, and the name and personal traits of every person.¹⁵⁵ Individuals have the right to claim the cessation of unjustified interference in the exercise of their rights, the removal of the consequences of such interference, and just satisfaction.¹⁵⁶ However, these provisions offer no protection against discriminatory decisions and practices by local administrative agencies. The Civil Code regulates private relations, while social assistance bodies that issue decisions on benefits are not private entities. As mentioned in the legal standards section of this report, Article 11 says nothing about, does not cover, and has never been interpreted to apply to racial discrimination. Furthermore, the case law and the commentary on the Civil Code imply that cases of racial discrimination do not fall within its ambit.

The institutions that would enforce antidiscrimination standards are also weak. The office of the Ombudsman, the Public Defender of Rights, was created by a constitutional amendment only in February 2001. It is defined as an “independent body” that participates in the protection of fundamental rights and freedoms. A law governing its activity is supposed to be submitted to the Parliament in September 2001¹⁵⁷ and should enter into force on 1 January 2002.¹⁵⁸ The Constitutional Court decides on complaints arising from administrative decisions that allegedly violate the fundamental rights and liberties of citizens; but the Constitutional Court does not have the competence to decide awards of damages, including lost earnings, or to compensate for losses incurred as a result of violations of fundamental rights.¹⁵⁹

Many obstacles hinder the access of Roma to legal remedies, even when they are merely trying to challenge the legality of decisions by social assistance offices. On the one hand, low levels of education and a lack of knowledge about the legal system make it difficult for Roma to pursue claims without legal assistance. On the other hand, there is no effective legal aid system in Slovakia for administrative cases. Indigents eligible for social benefits obviously cannot afford to pay for legal services. Furthermore, many lawyers are reluctant to accept Romani clients because they consider them undesirable,¹⁶⁰ while NGOs lack the resources to provide the necessary legal assistance.

Finally, there are credible reports that local officials penalize people who resort to legal recourse. NGO lawyers, for example, have stated that the local social assistance office in Presov has threatened to halt all benefits payments to people who pursue cases against it. Some social workers required Roma to renounce their right to appeal after they had their social assistance benefits reduced because they were deemed to be suffering material hardship for “subjective” rather than “objective” reasons.¹⁶¹ For example, Irena Conkova, a Romani woman from Hermanovce, was mailed the decision about the level of her social assistance benefits. The text of the decision contained the usual sentence informing her that she could appeal within fifteen days, which she did with the help of a lawyer. The head of the social assistance office later rejected her appeal, saying that she had given up her right to an appeal; but the office head offered no proof that she had ever done so.¹⁶² In another case, a social worker warned Ladislav Balaz that his family would not receive any money if he appealed an administrative decision that cut his benefits in half. When he appealed, the local office suspended all payments for four months.¹⁶³

Slovakia’s government is required by the constitution and the international agreements the country has signed to prohibit racism, to prevent discrimination, and to punish those who carry out acts of racial or ethnic bias. The state needs to take measures now to upgrade the existing administrative and judicial apparatuses so that those persons who suffer from discrimination will have effective, efficient, affordable, and credible mechanisms for redress.

7. Roma as “Unworthy” Beneficiaries of the Social Welfare System

Evidence of political and social pressures to limit Romani benefits provides a clearer understanding of the circumstances in which the Social Assistance Act was adopted and later amended. Statements by government officials and political leaders laid out the social policy agenda, set the tone for discussing social protection, and profiled the beneficiaries of social assistance programs. When top executives, legislators, and party leaders publicly criticize Romani needs and minimize Romani concerns, they set a negative tone for the debate, make it clear that they do not support Romani demands, and send the public a powerful message that racial profiling and discrimination toward Roma are acceptable. In the last decade, Slovak national and local political leaders have presented the Roma as the unworthy beneficiaries of a generous social welfare system. The British newspaper *The Observer* quoted the former Minister of Labor, Social Affairs and Family, Olga Keltošova, as saying that Roma do not want to work and are thieves who steal state benefits intended for their children.¹⁶⁴ Slovakia’s former prime minister, Vladimir Meciar, once said that it would be necessary to reduce the “extended reproduction of the socially inadaptible and mentally backward population by decreasing family allowances.”¹⁶⁵

On 29 November 1999, in a speech delivered to a forum of the German Society for Foreign Policy in Berlin, Slovakia’s president, Rudolf Schuster, said that Roma “lack the will to integrate . . . and . . . profit from state help but are neither willing nor capable of assuming responsibility for the improvement of their own situation.”¹⁶⁶ At a meeting of presidents of the four Visegrad countries on 3 December 1999, President Schuster’s office distributed a “Working Document on the Romani Issue in the V4 Countries,” which states: “The lifestyle of many [Roma] is oriented towards consumption, and they live from hand to mouth. Because of their lower educational level, the philosophy of some is to simply survive from one day to the next. If we add their increased propensity for alcohol abuse, absence of at least a minimum degree of planning, and low concern for developing normal habits including a sense of responsibility, hygienic habits and ethics, this philosophy of survival is becoming one of living ‘from one benefit to the next.’”¹⁶⁷

In the late 1990s, a large number of Slovakia’s Roma applied for asylum in Western European countries. The main destination was Finland, followed by smaller migrations to Norway, Denmark, Switzerland, Belgium, the Netherlands, Austria, and Luxemburg. In response, these countries, with the exceptions of the Netherlands and Austria, imposed a temporary visa requirement¹⁶⁸ for all citizens of Slovakia. The reimposition of this visa regime, considered one of the gravest problems facing Slovakia’s foreign policy,¹⁶⁹ significantly contributed to the increase in tensions between Romani and non-Romani communities.

The majority of ethnic Slovaks¹⁷⁰ and many of their leaders — including those charged with the protection of minorities¹⁷¹ — denied the existence of discrimination against Roma in Slovakia, and attributed the Romani emigration exclusively to economic

motives.¹⁷² “The Roma,” one Slovak told the press, “are stealing from the social benefit system. They don’t want to work. They do not face discrimination.”¹⁷³ Frantisek Sebej, the chairman of Slovakia’s parliamentary committee for EU integration, blamed the situation on “false” asylum seekers who were going to Belgium and other countries to seek “economic advantages.”¹⁷⁴ Commenting on the Romani migration, Prime Minister Mikulas Dzurinda himself stated that some citizens “learned how to misuse the social system not only in Slovakia, but also in EU-member countries.”¹⁷⁵

Some politicians seized this opportunity to call for reconsideration of social policies toward the Roma in general and for sanctions against unsuccessful asylum seekers who were forced to return to Slovakia. For example, on 9 January 2000, Robert Fico, leader of a right-wing party known as Smer (“Direction”), presented journalists with a draft bill that he said was aimed at punishing Slovakia’s Roma for their trips to Western countries and their “speculative requests for political asylum there.”¹⁷⁶ This unprecedented draft proposed cutting social assistance rights to anyone who leaves Slovakia “for speculative reasons” and stays abroad longer than two months. According to Fico, their access to social assistance should be barred, not only for the duration of their stay abroad, but also for twelve months following their return home.¹⁷⁷ Several days later, reacting to Finland’s introduction of visa requirements, the first chairman of the Slovak National Party (SNS), Jaroslav Paska, declared that it was time for the “Gypsies [who] draw barbed wire around Slovakia” to realize that “the whites will not feed them” anymore. He criticized the social assistance system and asked for structural changes that would reduce the level of benefits for Romani families with many children.¹⁷⁸ Rastislav Septak, another member of parliament from the far-right Slovak National Party, proposed revoking the passports of asylum seekers for five years after their return to the country.¹⁷⁹

In the summer of 2000, Fico’s declarations became apocalyptic: “The population growth of the Roma threatens to ruin Slovakia’s social system.”¹⁸⁰ On 6 June 2000, he called the Romani issue a “time bomb that will cause trouble if not kept under control” and asked that social benefits be cut to Romani families with more than three children.¹⁸¹ Fico has used such anti-Romani language to enhance his popularity, and surveys indicate that a large segment of the Slovak population agrees with him. Over the past two years, Fico has been ranked as Slovakia’s most credible politician,¹⁸² and in the spring of 2001 he was rated its most trustworthy public representative.¹⁸³

Several mayors and local council members have made statements indicating that they share Fico’s views on the Roma. Stefan Zacharias, mayor of Moldava nad Bodvou, reportedly admitted that “being open and concerned about Roma would decrease his popularity.”¹⁸⁴ The mayor of Rudnany, a village in Eastern Slovakia with one of the country’s most impoverished Romani settlements, suggested implementing a China-style birth-control program for Roma who are interested only in obtaining social benefits from the state.¹⁸⁵ Nalepkovo municipality in southeastern Slovakia bases its strategy for finding a

“solution to the Gypsy problem” on “reeducation” efforts aimed at fundamentally changing “the Gypsy way of thinking” and making the “Gypsies . . . feel ashamed” of being supported by the state.¹⁸⁶

Public opinion is another factor that contributes to an anti-Romani agenda in the formation of social policy. For many years, the negative image of the Roma in the eyes of the majority population was rooted in the widespread belief that the Roma did not want to work and only wanted to abuse the social assistance system.¹⁸⁷ The payment of social benefits to the Roma is one of the main reasons for animosity and mistrust between Roma and the majority of the population.¹⁸⁸ Although social benefits are barely enough to cover basic costs of living,¹⁸⁹ and Roma have no work opportunities, people still believe that social benefits payments are too high and that it is “unfair” that somebody who does not work receives money only because they have many children.¹⁹⁰

Almost 90 percent of the Slovaks surveyed in March 2000 said that the government should take action to stop Roma from abusing the social assistance system.¹⁹¹ About 50 percent endorsed direct discrimination, maintaining that different criteria should be applied to Roma and non-Roma in the distribution of social benefits.¹⁹² Since the early 1990s, sociological surveys have indicated a readiness on the part of about half of Slovakia’s people to accept stronger repressive measures against the Roma than against the non-Roma population.¹⁹³ In the March 2000 survey, 53 percent of the Slovak respondents agreed with the idea that Roma should be subjected, in general, to different legal regulations than other people.¹⁹⁴

Roma are particularly vulnerable in the health care system. They are segregated in hospitals and medical centers and may be refused treatment. Some have suffered involuntary sterilization.

Lack of Adequate Health Care

This section of the report examines the access Slovakia's Romani population has to adequate health care. To assess the extent to which the government or private persons discriminate against Romani patients and interfere with their ability to obtain adequate medical care, the report reviews the health of Slovakia's Roma in general; legal standards and health care costs; and cases of direct discrimination against Romani patients by doctors and other medical personnel, including instances of segregation on the basis of race, the limitation of access to gynecological care for Romani women, and refusals to address the needs of people who have suffered racist attacks and sterilization. It also reviews the vaccination coverage of Romani children; other barriers Roma face in gaining access to health care, such as the permanent residence requirement; and problems that Roma have in receiving emergency care.

1. **General Status of Romani Health in Slovakia**

Although general information about the health of the Roma is more readily available in Slovakia than in many other European countries,¹ it is nevertheless scarce and outdated, with much of it published before 1989.² After the fall of the communist regime, doctors who once carried out studies on Romani health seemed to have become intimidated by

the debates over minority health surveys and gave up further research.³ Much of what little information is available has been gathered by general practitioners and NGOs in a non-systematic manner, and it focuses on contagious diseases.⁴ Most noncommunicable diseases have not been studied.⁵

The substandard and impoverished living conditions in Romani settlements make residents there more vulnerable to infectious diseases than poor people elsewhere in Slovakia. Reports on epidemics of hepatitis, parasitic diseases,⁶ and tuberculosis⁷ have been frequent over the years. The International Organization for Migration (IOM), an organization that works in close cooperation with Slovakia's government, characterizes the present situation as "alarming."⁸ According to the IOM, the incidence of respiratory diseases has grown dramatically in Romani settlements since 1989. Tuberculosis is spreading rapidly.⁹ Meningitis remains a serious threat. Skin and venereal diseases are reportedly widespread in Romani settlements; however, comparative data for similarly situated non-Roma are unavailable. Most of the cases of scabies, pediculosis, pyodermitis, mycosis, and askaridosis diagnosed and registered by general practitioners have been found among inhabitants of Romani settlements.¹⁰ Roma frequently suffer physical trauma caused by accidents.¹¹ There are indications that, in general, the health of Roma living in these settlements is deteriorating.¹²

The national government has acknowledged that the health of the Romani population, including Romani children, is much worse than that of the majority population.¹³ Romani men have a life expectancy 13 years shorter than do Slovak men, and Romani women have a life expectancy 17 years shorter than that of Slovak women.¹⁴ Romani children have significantly higher mortality rates than other children. The Slovak National Committee for UNICEF reported in 1999 that the infant mortality rate for the Roma in Eastern Slovakia, where most of the country's Roma live, is three times that of other ethnic groups.¹⁵ In 1995, the infant mortality rate for the Roma in Eastern Slovakia was 27.2 percent,¹⁶ while the rate for the population at large was 11 percent.¹⁷ In 1996, in the city of Kosice and its surrounding area, the infant mortality rate for Roma was 20.6 percent; in the district of Trebisov, it reached 31 percent; and in Michalovce district, it was as high as 35.7 percent.¹⁸ The infant mortality rate for the population at large in the same year was 10.2 percent.¹⁹ Prenatal deaths were 1.5 to 2 times higher for Roma than for non-Roma in the Roznava region during one period in 1996 and 1997.²⁰

A study conducted between 1995 and 1997 found the rate of low-weight births for Slovakia's Roma to be more than twice that of non-Roma.²¹ Many Roma give birth at a very young age. Very young mothers, who tend to lack maturity and have lower social economic status, less education, and less access to health care, are more likely to give birth to low-weight babies. The share of low-weight births relative to overall births increased in Slovakia during the 1990s,²² but researchers have not drawn definitive conclusions about the specific reasons for this increase.²³

Maternal mortality in Slovakia is below the World Health Organization's target for Europe, which is 15 per 100,000 live births.²⁴ Unfortunately, specific information on maternal mortality among the Roma is not available. Evidence from small-scale studies suggests that abortion rates are higher for Romani than non-Romani women.²⁵

2. Health Care Rights and Access to Health Care Insurance

2.1. Health care rights

Slovakia's Constitution guarantees the right to the protection of health.²⁶ The Public Health Act²⁷ defines public health as “measures taken for the prevention of diseases and other health disorders, the prevention of their spreading, and the reduction of their incidence; for the promotion of health through maintenance of healthy living and working conditions, and a healthy lifestyle; and for the performance of State health supervision.”²⁸ Each citizen's right to free health care and medical supplies is constitutionally guaranteed and implemented as established by health care legislation.²⁹

Neither the health care law nor the law on health insurance includes any specific antidiscrimination provisions. An equality clause does appear in the code of ethics,³⁰ which obliges doctors to preserve life, protect and restore health, and reduce suffering regardless of a patient's nationality or race and regardless of the subjective feelings of the doctor.³¹ There are no special penalties for discrimination, but the professional association of Slovakia's physicians, the Slovak Chamber of Doctors, can sanction doctors who violate code of ethics norms. The possible sanctions include written warnings, suspension of the physician's license to practice medicine for a period of up to three months, and fines ranging from 2,000 to 20,000 Sk (approximately U.S. \$50 to U.S. \$500).³² Failure to fulfill professional obligations or to respect a decision taken within disciplinary proceedings can result in suspension of a license to practice medicine for a period of up to two years or fines ranging from 5,000 to 50,000 Sk (approximately U.S. \$125 to U.S. \$1,250).³³

2.2. Access to health care insurance

Health insurance is compulsory for all permanent residents of Slovakia,³⁴ citizens and noncitizens alike. It is also compulsory for nonresidents who are employed or self-employed in the country as well as persons who are granted refugee status.³⁵ The state, employers, employees, and the self-employed contribute to the health insurance fund.³⁶ Loss of permanent residence status leads to loss of health insurance.³⁷

The state pays the health insurance contribution for the dependent children of permanent residents; for beneficiaries of Slovak or Czech old-age pension plans, provided that they are not employed, self-employed, or short-term, contracted employees; job seekers; persons who care for children under the age of three or severely impaired minors;

persons who take care of a disabled person or a person over 80 years old; persons who, due to having taken care of a child or a relative, did not become entitled to a pension and who, due to their age, have no income; and persons receiving social benefits due to social dependency; soldiers serving their compulsory military service and persons performing civilian service under such terms that their income does not exceed the amount of the minimum wage. The state also pays health contributions for persons imprisoned or persons otherwise executing a sentence, unless such persons earn an income; indigent persons who have reached the age required for an old-age pension but do not meet the criteria for granting thereof; unemployed foreign nationals and stateless persons who have been granted refugee status; and persons performing work for a church, religious order or charity community who do not earn income from work.³⁸

Most Roma in Slovakia have access to health insurance. Interviews conducted in rural areas and urban ghettos, as well as discussions with NGO personnel and Romani leaders, revealed that the majority of the Roma, even from the poorest settlements, are covered by at least one of the legal categories described above. Health insurance problems arise for individuals without valid identification papers and for families who lose their residence and cannot register as permanent residents in another place.

3. Direct Discrimination

3.1. Attitudes of medical personnel

Many doctors, nurses and other medical personnel appear to approach Romani patients in a different manner than they do their non-Romani clients. According to the Slovak Helsinki Committee, many health care workers feel hostility toward the Roma because of their race, the color of their skin, their poverty, and their lack of education.³⁹

Some doctors overtly manifest disgust when in contact with Romani patients. The coordinator of *Minoritas*, a Canadian-funded project based in a Romani settlement, reported that, in his presence, the local doctor repeatedly yelled at Romani patients, insulted them, told them, “you stink,” and addressed them as “you dirty dog” or “you idiot Gypsy.”⁴⁰

In Eastern Slovakia, Romani women report of often being insulted by medical personnel in maternity wards. “The nurses tell us, ‘You stink!’” said a 34-year-old mother of five from Vitkovce named Maria D. “They do it all the time. They humiliate us.” Angela D., a mother of four from Kosice, said that “when Romani women give birth, doctors say: ‘Well, you knew how to go to your man’s bed, so now you look after yourself.’”⁴¹

Some patients chose to forgo treatments rather than suffer such verbal abuse. Z.Y., a Romani woman from one of the settlements in Eastern Slovakia, stated that she stopped breast cancer therapy because she could not bear the hostility of the doctors and nurses in the hospital at Kezmarok. “They [the health care personnel] use every oppor-

tunity to show us that we are inferior. Doctors address Romani women using ‘ty,’” she said. “Ty” is a personal pronoun that is insulting when it is used to refer to persons who are not good friends or relatives. For non-Roma, the woman said, the doctors use the respectful personal pronoun “vy.” “After I gave birth, the gynecologist was calling me ‘ty’ and making dirty jokes with me. I complained to the hospital director, but nothing happened, and the doctors continued to call me ‘ty.’ People say the state takes care of us, and that’s why they feel entitled to insult us.”⁴²

Hostile attitudes, displays of disgust, insults, references to a patient’s ethnic background, and verbal abuse hinder access to health care. They create an atmosphere of fear and mistrust that undermines health care services. The government has an obligation to investigate allegations of racially discriminatory practices, which include inappropriate comments delivered by health care professionals and workers, most of whose salaries and expenses are paid by the state. The government should prosecute persons who violate antidiscrimination laws. Romani advocates should continue to document thoroughly these incidents, bring them to the attention of the authorities, and pursue them in courts if no action is taken.

3.2. Doctors’ refusal to care for Romani victims of skinhead attacks or police brutality

Racially motivated attacks against Roma have increased in recent years.⁴³ Skinheads and other thugs attack large numbers of Roma annually. National and international NGOs have extensively documented cases of ill treatment of Roma by law-enforcement officials in general and by the police during raids in Romani settlements in particular. When seeking redress, many Romani victims of crime are confronted with a refusal or reluctance on the part of the police to register complaints or to investigate racially motivated attacks in a timely or thorough manner.⁴⁴

Some doctors have engaged in discriminatory behavior that has further aggravated the injuries suffered at the hands of skinheads and law-enforcement officers. Some have refused to treat injured Roma. Some have declined to provide their patients with proper medical certificates that would document the existence and extent of their injuries, especially when state officials, including police officers, are responsible for inflicting them. Such behavior, which appears to be racially motivated, is immoral, illegal, and unacceptable.

3.2.1. Poor medical treatment for victims of racist attacks

Many health care workers have allegedly refused to provide needed medical treatment to Roma who have suffered from police brutality or attacks by skinheads. They have refused to examine Romani patients; they have failed to order needed tests or medication; and they have released Roma before they were medically ready to leave the health care facilities.

In one incident in December 1999, doctors reportedly refused to treat a Romani man whom the police had physically abused during a raid on the Romani settlement of Zehra. Early one morning, nearly 100 police officers, armed with guns and dogs, entered Zehra, ordered the men to lie down on the floor, and started kicking and punching them. They shot a 14-year-old boy with a rubber bullet. In the aftermath of the incident, police reportedly used pressure and threats to discourage the Roma from pressing police brutality charges.⁴⁵ According to Amnesty International, several Roma were refused treatment for their injuries by local doctors, which prompted allegations that the police had told the doctors not to treat the Roma.⁴⁶

Recently, the Kosice-based Romani Legal Defense Agency (RLDA) released a report about a police raid carried out in January 2001 in the village of Hermanovce. The report, supported by videotaped testimonies of the victims, describes policemen spraying tear gas into the eyes of one suspect, striking him with batons, and shouting racial epithets at him and his family. Frederik Kaleja, one of the young Romani men who was detained that night, says on the videotape that Jarovnice police officers handcuffed him to the radiator in the police station, punched his stomach, and beat his back and neck with their batons. Kaleja says that he was tortured and sexually harassed and that one police officer forced him to perform oral sex.⁴⁷ Kaleja told the RLDA that the local doctor refused to treat him for his injuries, refused to provide psychological counseling, refused to listen to his allegations of police brutality and sexual abuse, and sent him away without treatment or a medical certificate.⁴⁸ Another NGO in Kosice has documented instances in which doctors from Moldava and Bodvou Hospital refused to treat Roma who were injured by the police. The NGO also has statements from Roma who have received care asserting that doctors treated their injuries as trivial and were careless.⁴⁹

In another incident on 21 April 1999, a group of skinheads assaulted several Romani men in Poprad. Two Roma suffered severe head injuries and one Romani woman, who witnessed the attack, suffered an epileptic fit. In a letter to the Minister of Health, the Legal Defence Bureau in Kosice noted that medical care for the victims was severely lacking.⁵⁰ Ambulance personnel refused to attend to the Romani woman who was lying on the ground, asserting that she was only “faking it.” Although the two men were obviously wounded and had blood running down their heads, health care personnel were verbally abusive and ordered them to stand up and “stop pretending.” Only after this were the wounded placed on litters and transported to the hospital. While stitching up the head of one of the victims, the doctors in the hospital made numerous racist comments about the Roma, complaining that the “whites” had to do all the work for the “lazy Roma” who “do not like to work.” The next morning, one of the hospitalized Romani men asked the doctor for a painkiller, but the doctor refused to give him any and said that he should “get out of [the doctor’s] sight.” Finally, the doctor on duty in the surgery department refused to treat a young man named Marian Mirga, who had received several blows to the

head from blunt objects during the skinhead attack. Although Mirga had a written recommendation for x-rays signed by the emergency room doctors, the surgeon declared that the boy had no medical problem whatsoever and refused to send him for x-rays.

Instead of undertaking an independent investigation of the Poprad incident, the Ministry of Health entrusted the case to the Poprad Hospital's Inspection Department,⁵¹ which found that the Romani claims were unsubstantiated. According to the hospital, the doctors did not make any racist remarks; the Romani victims were aggressive, vulgar, and under the influence of alcohol. The next morning, while in intensive care, Romani patients were again "disruptive and aggressive toward the medical personnel." The Romani patients were not sent away from the hospital and did not leave dissatisfied with the care, but because "they wanted to spend Easter at home with their families," according to police and hospital records. Finally, the hospital considered the decision of the surgeon not to send Mirga for x-rays to be reasonable, because the patient did not present any "lack of consciousness."⁵²

It would be difficult for anyone not involved in these incidents to try and determine, after the fact, what the doctors did or did not do. Doctors have a great deal of discretion in determining what tests and treatments are appropriate for their patients. It is also reasonable for them to want to work in a safe environment and not to receive threats or abuse from patients.

However, it is highly suspicious that there are many incidents in which Roma apparently receive less treatment than required. The number of complaints of such incidents suggests that it is common for health care professionals not to provide appropriate treatment to Roma who suffer from racist attacks. Furthermore, it is certainly discriminatory for doctors' to make negative comments about their patients on the basis of race. Slovakia's Ministry of Health should undertake independent investigations into these allegations and take appropriate disciplinary and legal action against those health care professionals and workers who deviate from established medical treatment norms and discriminate against Romani victims of racial attacks.

3.2.2. **Doctors' refusal to document injuries from racial attacks**

Medical certificates officially document what injuries a patient has received and can suggest possible ways in which the patient was injured. Victims of attacks can use these records to substantiate their claims before administrative bodies, in courts, to the press, and to persons who collect evidence of human rights abuses. Some doctors have refused to issue injured Romani medical certificates. In some instances, the doctors apparently harbor prejudice against the Roma; in others, doctors do not want to make a statement about an attack that might be racially motivated because they do not believe Romani accounts or because they are reluctant to get involved.⁵³

For example, on the evening of 11 June 1996, on a street in Banska Bystrica, three

skinheads attacked a young Romani man named Ivan Mako after a verbal exchange in which they called him a “dirty Gypsy.” The attackers, who were unknown to the defendant, punched him in the face and threw a paving stone at him. Mako suffered lacerations and bruises around his eyes and a fractured nose. He was unable to work for 18 days as a result of his injuries.⁵⁴ The victim told the author that he felt particularly uncomfortable in the emergency room at the hospital where he went immediately after the attack for medical examination. “First, the doctor made it clear that he [did] not believe me. When I told him that I was attacked by skinheads, he started laughing and jokingly said that we Roma are just used to fighting each other. Secondly, I asked him to write down that I was attacked by skinheads, and he refused.”⁵⁵

Irena Conkova and her husband, who are from the Romani settlement of Hermanovce, were attacked by skinheads in 1999. “The skinheads ambushed us . . . and punched our faces with brass knuckles,” Conkova told *National Geographic* magazine. “And when we went to the hospital and told [the doctors] what happened, they did not believe us. They thought we’d been fighting among ourselves.”⁵⁶

During the 21 April 1999 incident in Poprad Hospital described above, law-enforcement officials rounded up four Roma who protested against the failure of the police to investigate. The police beat the protesters severely, according to the European Roma Rights Center. Police officers then brought the four Romani men to a first aid station for treatment and reportedly ordered the medical attendants not to document their injuries on the medical certificates.⁵⁷ The legal representative for Marian Mirga, one of the beaten Romani men, claims that the police forced the doctor to issue a signed medical certificate saying that Mirga had only slight bruises when he arrived from the police station to the hospital, even though he had visible bruises all over his face.⁵⁸

There are also allegations that state officials have covered up possible police brutality that resulted in deaths. A 21-year-old Romani man named Lubomir Sarissky died in August 1999 after he was shot in the abdomen during interrogation while in police custody in Poprad.⁵⁹ The police said that while an officer was questioning Sarissky about a bicycle theft, Sarissky took the officer’s gun and shot himself. The policeman was found guilty of manslaughter for having a loaded gun and allowing the victim to take it and commit suicide with it. Sarissky’s family did not appeal. The policeman was fired and later committed suicide and the case was closed.⁶⁰ However, the Sarissky family’s legal representative suspects that investigators attempted to conceal or manipulate evidence because they refused to give him access to the coroner’s report on Sarissky’s death for several months.⁶¹

In another case, a 28-year-old Romani man, Pavol Duzda, died in jail in Levoca on 2 February 1998. The medical reports indicate that he committed suicide while in detention. Duzda’s family strongly questioned the accuracy of the medical reports after

observing possible signs of torture on his body, including “large bruises on his face, a bloody wound on the forehead between the eyebrows, bruises on the back, and a badly wounded leg.”⁶²

The skepticism Slovakia’s Roma face from doctors when reporting cases of police brutality and hate crimes is publicly matched by the cynicism of the police, who routinely dismiss Romani complaints as attempts to invent reasons for migrating to the West. In the latest incident of apparent racial violence, a 38-year-old Romani woman from Kosice named Eva Csiszarova alleged that on 20 March 2001 a group of about 15 skinheads beat her and her 10-year-old daughter, Ivana, doused her with gasoline, and tried to set her on fire. According to the daily paper *Sme*, the skinheads departed after failing to find matches. Csiszarova was taken to a hospital, where doctors treated her for multiple wounds on her face and back and discharged her. Two days later, Kosice district police department chief Lubomir Kopco denied that the beating had taken place as reported. “In my opinion, she made it up,” he told the press. “I don’t know why she would do it, but the Roma are probably preparing the groundwork to leave [the country and apply for asylum in the West].”⁶³

International organizations and foreign governments have found reports of abuses such as these to be true. The ECRI has reported that Slovakia’s police often refuse to record statements by Romani victims of skinhead attacks and that the police “exert pressure on the victims of police brutality to withdraw their complaints, while . . . doctors and investigators refuse to give specific descriptions of the victims’ injuries.”⁶⁴ In its 1996 annual country report on Slovakia, the U.S. Department of State noted instances of doctors cooperating with police and refusing to accurately describe injuries to Romani victims of police brutality or skinhead attacks.⁶⁵ The State Department expressed similar concerns again in 2001.⁶⁶

It is illegal for doctors not to perform their duty to fill out medical certificates accurately, particularly if racial bias motivates them. It is certainly inappropriate for police officials to threaten or coerce health care workers into making inaccurate reports about medical conditions or autopsy results. The incidents described above illustrate the need for Slovakia to take disciplinary or legal action against those medical professionals and other persons who discriminate or who fail to carry out their duty when drawing up medical certificates. The government should also punish law-enforcement officers who coerce or threaten doctors to keep them from accurately recording the type, extent, and known causes of injuries.

3.3. Limited access to gynecological care

Prior to its dissolution, Czechoslovakia had high levels of gynecological care. The health system placed an emphasis on patient visits, diagnostic and other testing, counseling, and

education. Medical care workers followed most women regularly through their pregnancies, and the great majority of births took place in the presence of qualified staff in health centers. These conditions applied to Romani and non-Romani women alike.

Health policies after 1989 shifted responsibility from the health care system to the women themselves, and the quality of preventive care for women in general and for Romani women in particular was adversely affected.⁶⁷ This new approach has been implemented through measures such as the elimination of specialized health education sections from public hospitals,⁶⁸ the abolition of an institute for nurses, and the lifting of a requirement that gynecologists ensure regular checkups.⁶⁹ Nurses, who were an important source of information and advice for families, no longer visit newborn babies at home — a change that has hurt the people in Slovakia's poorest areas and especially in the Romani villages.⁷⁰

In addition to this new approach's negative impact on Romani women, some health institutions and health care professionals have imposed time restrictions that further curb Romani women's access to gynecological care. The practices of the Gynecological Department's Health Care Center in Kosice are illustrative of these problems.

Romani women from the Lunik IX district in Kosice, one of Slovakia's largest Romani ghettos, are all registered with one office, the Gynecological Department's Health Care Center.⁷¹ The doctors there have made it a rule to receive pregnant Romani women only on Fridays. During the rest of the week, non-Romani women from other parts of the city are examined. There are no restrictions linking where they live with the day they may be examined. Sometimes Romani women from Lunik IX are unable to wait until the next Friday for urgent but nonemergency medical attention. For example, in October 1997, three skinheads beat up a pregnant woman named Hilda, whose Romani husband, Robert Hmilansky, lives in Lunik IX. On the following day, Hilda complained about having pains; she was bleeding; and she and her husband were afraid of a miscarriage. They went together to the Gynecological Department's Health Care Center but were told that the doctor would not examine Hilda because Romani women from Lunik IX were supposed to come only on Fridays.⁷² Hmilansky reportedly protested, but the doctor showed no concern and told them that if they were worried they should go to the city's hospital.⁷³ At the hospital, Hilda was told that the assault and the emotional stress related to it had caused her bleeding. She could not do any work until she delivered the child.⁷⁴ Although Hilda eventually received the medical care she required at the hospital, the Health Care Center's policies appear to have imposed a burden on her and her husband because of their race that other non-Roma would not have had to bear.

Medical personnel from the Gynecological Department's Health Care Center confirmed that they receive Romani women from Lunik IX for check ups and pregnancy visits only on Fridays. A doctor explained that Friday was chosen because the department's instruments need to be sterilized after Romani women are examined and that a thorough

sterilization of medical instruments and other equipment is done once a week, after hours on Friday. He claimed that an epidemic of hepatitis in Lunik IX justified the measure, and that the public hygiene institute responsible for the control of contagious diseases suggested restricting the access of Romani women to gynecological care to one day a week.⁷⁵

However, as shown by the Hmilansky incident in 1997, the Friday-only rule was already in force long before the outbreak of hepatitis in Lunik IX, which began in 2000. The Friday-only rule was kept in force even a year after public health officials declared the hepatitis outbreak to be over. On 5 March 2001, the author visited the Gynecological Department's Health Care Center in Kosice to verify whether the practice was still in place. The schedule posted on the doctors' office clearly indicated that examinations for women from Lunik IX were held on Fridays between 12:00 and 14:00.⁷⁶ The doctor there refused to comment on the reason why Romani women had access to gynecological care for only two hours a week. The doctor's assistant agreed to discuss the matter; but after hearing one question related to the access of Romani women, she said: "I do not want to have problems" and refused to continue the conversation.⁷⁷ Local NGOs have pursued this matter with the hospital's administration, but have not had any conclusive results.

Limitation of access to health care services on ethnic grounds is unlawful unless the limitation is in pursuit of a legitimate goal through reasonable measures. In this case, the government could argue that there is a legitimate interest in controlling the spread of hepatitis from Lunik IX into the rest of the city. But, the policy of limiting the access of Romani women to gynecological care was in place long before the outbreak of hepatitis and has been kept in force long after the epidemic ended. Moreover, concerns related to contagious diseases may be addressed by sterilizing the equipment more often and not by restricting the consultation time for Romani women. This policy is clearly not justifiable. The government should take immediate measures to reverse such policies and sanction the persons responsible for them.

3.4. Segregation in health care facilities

Segregation in hospitals and medical centers is an everyday experience for the Roma of Eastern Slovakia, and it is the rule rather than the exception. Romani patients often stay in Romani-only rooms; they sometimes use different showers, bathrooms, and eating rooms; and occasionally they receive treatment in different facilities. Segregated rooms can be found in Jarovnice,⁷⁸ Kosice Nemonica SNP,⁷⁹ and in maternity wards in Spisska Nova Ves,⁸⁰ Stara Lubovna,⁸¹ Trebisov,⁸² and other places. In the maternity ward in Kezmarok, the officials allocate room no. 8 to Romani women, and they are not allowed to use the same showers and the same toilets as the non-Romani women.⁸³ "In the maternity in Spisska Nova Ves," one woman reported, it "is not only about being placed in different rooms, but we, the Romani women from Rudnany, are not allowed to eat with the other patients in the common space. We are obliged to remain in our room and to eat there."⁸⁴

The practice of segregation has allegedly become common in recent years. “Everyone knows” which are the “Romani rooms” and which are the “white rooms” in the maternity ward in Krompachy, a Romani woman from Richnava says.⁸⁵ “For several years there have been separate rooms for Romani women in Roznava and separate rooms for white women,” said Helena, a 32-year-old mother of two who lives in Rostar.⁸⁶ “Well, as people say, Roma to Roma and white to white,” said 36-year-old Jana from Krompachy while commenting on her experience staying in a segregated, nine-square-meter room with five beds in it.⁸⁷ Some women have reported that the communist government did not permit segregation to the same extent as it exists now. Sixty-one-year-old Ruzena from Vitkovice told an NGO conducting a survey that, in her time, the communists did not allow for such differences.⁸⁸ Other women who reported segregation in recent years said that they had shared rooms with non-Romani women before 1989.⁸⁹

Roma report that the forced segregation has stigmatized, angered, and frustrated them. “We want to be treated like any other mothers,” said a young Romani woman. “We feel humiliated when the whites are separating us like that.”⁹⁰ Most of the women indicated that they felt their separation was unfair. “It is not right at all to be so secluded. But what can we do?” asked Denisa B., a 22-year-old mother of two in Kosice.⁹¹

Many of the women also expressed the belief that they received lower-quality medical treatment and less attention from medical staff than non-Roma: “[Doctors] did not attend to Romani women as they attended to the white women. . . . Nobody asked us if we had any pain or if we needed something, as they did with the white women. They are not interested in our problems,” said Gizela M., a 28-year-old mother of five in Spisska Nova Ves.⁹² “Doctors . . . treat us differently,” said Angela D., a mother of four in Kosice. “For example, yesterday, when I was in the delivery room, there was only one doctor with me, unlike the white woman next to me. She had everybody around her, nurses, doctors, all of them. . . . Doctors say that, because we give birth every year, we have good practice and do not need the help of nurses and other health personnel.”⁹³

Doctors, other health care workers, and supervisory personnel assist in the segregation of the Roma in the facilities where these practices now occur. “It is always like this: At the entrance in the hospital they tell us where to go, and there is a Romani room,” said a Romani woman in Jarovnice. “The doctor would not allow us to stay with non-Roma.”⁹⁴ Health care workers have separated Romani women on the basis of race, even if the Roma have expressed a desire to stay with non-Roma. “I gave birth in Spisska Nova Ves and in Krompachy,” said Maria I., a 34-year-old mother of five who lives in Vitkovice. “We wanted to be with white women but doctors placed us automatically in rooms where there were already Gypsy women.”⁹⁵ Women patients in Spisska Nova Ves are convinced that the supervisors know of these practices and tacitly, if not explicitly, support them. “We complained about being treated differently in the maternity, not to the director of the hospital, who knows and does not take any measures, but to our mayor. However, nothing happened,” one Romani woman said.⁹⁶

Some hospitals have admitted to introducing segregationist practices and justified them by saying that Romani women are antisocial.⁹⁷ Health care personnel offered different explanations to expectant mothers who complained about being separated along ethnic lines. In some cases, they said the Romani women would feel more comfortable together; in other cases, they said non-Romani women do not like being with Romani women. “They say we Gypsy women understand each other better. This is why we are put together,” said Marcela G., a 27-year-old mother of seven in Kosice. “They said the non-Roma don’t understand us. They do not want to be with Gypsies, they want to keep white mothers together.”⁹⁸ A widespread stereotype that all Roma are thieves prompts some non-Romani women to request separation from Romani women. “The white women don’t want to stay with us because they think we will rob them,” said Angela D., a mother of four in Kosice.⁹⁹

In the summer of 2000, the Kesaj Foundation complained to Slovakia’s Ministry of Health about these practices. It notified the ministry by letter that most of the gynecological and obstetrical departments in hospitals in Eastern Slovakia separate Romani women from non-Romani women, that the practice violates the state’s obligations under international human rights law, and that the Romani community in Slovakia perceives these efforts as a purposeful attempt by health care personnel to maintain and deepen racial prejudices against Roma. This long-term segregation, the Kesaj Foundation stated in its letter, is evidence of ethnic discrimination.¹⁰⁰

Under international law, the Slovak government can justify differential treatment upon racial lines if it can show that the policy has an objective and reasonable justification. Responding to the Kesaj Foundation’s letter, the Ministry of Health said that as a rule segregation does not exist, but if Romani patients are separated from patients from other racial and ethnic groups, it is in accordance with their own wishes. The ministry also argued that some Romani patients are very undisciplined and do not respect hospital regulations, and that Romani mothers leave the hospital right after delivery and return five days later.¹⁰¹

The government’s arguments concerning this matter do not appear to justify the impact that the segregation has on the Roma. Research by the Kesaj Foundation and the interviews carried out by the author during two fact-finding visits to Slovakia demonstrate that, almost without exception,¹⁰² Romani women do not seek and do not want to be placed in separate rooms. They do not need any special additional care that would require separate rooms, because they do not suffer from any contagious diseases and do not have any particular hygiene problems. Nevertheless, they are being treated differently than women from the majority population, so it is difficult to understand how segregation fulfills a legitimate aim under the applicable international and constitutional standards.

Second, it is not reasonable for the health care facilities to place all Roma sys-

tematically in separate rooms because of the misbehavior of a few. A proportional measure would be to separate only those persons who cause or who have a history of discipline problems. Third, the ministry argued that Romani women leave the maternity ward immediately after the birth and come back five days later to take their children home. Even if this were true for all, or even most Romani women, which cannot be assumed, the moment of a mother's departure from the hospital is irrelevant in the assignment of rooms and does not justify racial segregation.

It is illegal for doctors to segregate patients on the basis of their race unless the measure is reasonable and objective and is undertaken for a legitimate purpose. Slovakia's Ministry of Health has so far failed to demonstrate the existence of such a purpose. Even if the facilities were separate but equal, segregation in Slovak maternity wards would still run afoul of international antidiscrimination norms, which the Slovak Constitution requires the country to follow.

4. Sterilization

4.1. Sterilization campaigns before 1989

Throughout the latter part of the communist era in Czechoslovakia, the authorities used the law, health care services, and social assistance systems to encourage Romani women to undergo sterilization operations with the intent of reducing the size of the Romani population.¹⁰³

The communist government's sterilization policy, which was presented as a family-planning measure for indigents and as an act of "socialist humanity,"¹⁰⁴ rapidly deteriorated into a quota-driven campaign during which women were misinformed, bribed, and otherwise coerced into being sterilized.¹⁰⁵ In implementing governmental decrees, social and community workers offered money, furniture, and other material goods to persuade women to agree to give up their ability to have more children.¹⁰⁶ Social workers reportedly sometimes intimidated Romani women with threats that their children would be taken away and institutionalized if they did not agree to be sterilized.¹⁰⁷ Although the government made financial incentives available to everyone throughout Czechoslovakia, the widespread poverty among the Roma made Romani women particularly vulnerable to these inducements. In the 1980s, women subjected to sterilization in Czechoslovakia could receive the equivalent of a year's salary.¹⁰⁸ The human rights group Charter 77 reported in 1990 that the younger the woman was and the fewer children she had, the higher the payments the government would make. "The fact that Romani women are uneducated and uninformed is being cynically abused," Charter 77's report stated, adding that the decision to undergo sterilization caused some families to split apart and prevented women from starting new families with other partners.¹⁰⁹

It is clear that many Romani women were sterilized without having given their

explicit consent. Women who visited doctors seeking assistance in giving birth or other medical help left clinics no longer able to bear children. Some doctors informed the women that they had been sterilized only after the operations and they were often told it was for medical reasons. Other doctors never informed their patients. In some cases, women started to suspect or learned that they had been sterilized only years after the procedure.

Although it is difficult to obtain full and accurate data about these practices, researchers found that, during the pre-1989 period, Romani women were sterilized at a rate more than 10 times higher than their percentage in the overall population. Pellar and Zbynek found that approximately 26 percent of the sterilized women in 1983 were Roma. The percentage increased to almost 37 percent in 1987, even though Roma represented approximately 3 percent of Czechoslovakia's overall population.¹¹⁰ Pellar and Zbynek also found that 9 of every 23 Romani women sterilized before 1989 had not been informed that they had been sterilized or were informed only after the operation.¹¹¹

Researchers also discovered that many of the sterilizations violated legal procedures in addition to those requiring prior consent of the person to be sterilized. The law stated that women under 35 years old could undergo sterilization for contraceptive reasons only if they had more than four children; women over 35 years old could be sterilized only if they already had at least three living children.¹¹² However, approximately 16 percent of sterilizations were performed on women who did not meet these qualifications.¹¹³

Struggling for Ethnic Identity: Czechoslovakia's Endangered Gypsies, a report by Helsinki Watch published in 1992, documents a number of cases of women who claim that their doctors sterilized them without their knowledge as they underwent other procedures like abortions and cesarean sections. A.D., a woman from the town of Krompachy in central Slovakia, claims she was sterilized without her consent while undergoing an abortion:

"I went to get an abortion, and they told me, 'Be so kind as to sign here before you go in for the abortion.' So I signed and went in for the abortion. They just gave me the paper to sign, folded it, and put it in an envelope. I didn't know anything. After the procedure they told me that something went wrong, that they had to repeat the procedure. I was afraid that part of the fetus would stay in me, so they gave me an injection and brought me upstairs to the operating room. After the operation, when I went downstairs, the women asked me what was wrong and I told them about the badly done abortion. Then they told me that I had been sterilized. But at the time I did not know what sterilisation was. The doctor had explained to me that there would be a period of time when I wouldn't be able to have children, but maybe after a while I'd be able to have children again. But the other women told me that I wouldn't be able to have any more children."¹¹⁴

During fact-finding missions in Slovakia, the author of this report talked to many Romani women who know or believe they are victims of forced sterilization. They agreed to provide information on the circumstances of their cases, including the year, the hos-

pital, and sometimes the names of the doctors who operated on them, but only if their identities were not disclosed. Some of them considered taking legal action. All of them live in Romani settlements in Eastern Slovakia.

▶ A.A. had a cesarean section in 1986 in a hospital in Eastern Slovakia. After the operation, she never became pregnant again. Medical personnel confirmed the fact that she is unable to bear children. Her medical record does not include any references to a sterilization procedure. She has been unable to determine whether her sterility resulted from a medical intervention or the consequences of an illness, but she suspects that she was sterilized when she had the cesarean section. An examination that might make a definite assessment is not covered by health insurance and beyond her financial means.¹¹⁵

▶ B.B. was sterilized in 1981 at the age of 21 after she had given birth to her second child. “The only thing the doctor asked me was whether I wanted a cesarean operation or whether I wanted to give birth normally. Five days after my child was born, the doctor said that he had sterilized me. I started crying, and I asked him why. He snapped: ‘I had to.’ He did not give me any compensatory treatment. I had and I still have health problems because of it. Six months ago I found out that abdominal pains I have suffered for years are caused by an untreated inflammation of the scar. Additionally, I had family problems, because we were still young and could have had more children. At first, my husband did not believe that the doctors did this to me without my permission.”¹¹⁶

▶ C.C. was sterilized at her own request in 1988 at the age of 21. When she agreed to be sterilized, she was not fully aware of the implications that the operation might have for her health. She later suffered severe physical complications, including abdominal pains, missed periods, and abnormal uterine bleeding. While these conditions might have arisen from other circumstances, C.C. believes that the surgery was responsible for them.¹¹⁷

Throughout Czechoslovakia there were doctors who enthusiastically supported the sterilization policy, even if the practice violated their patients’ human rights. One of them, from the northern city of Most,¹¹⁸ shared with Helsinki Watch his belief that doctors have the right to sterilize Romani women in the interest of the health of the nation and for the sake of the state budget. “I’m convinced that sometimes there was sterilization after a cesarean section, when a very socially weak Romani woman . . . was sterilized without her knowledge,” he said. “I think that the gynecologist had the right to do this without her consent. On the one hand, there are human rights. But on the other hand, when you see how these Gypsies multiply and you see that it is a population of an inferior quality, and when you look at the huge sums that had to be paid for the care of these children, it’s understandable.”¹¹⁹

Slovakia has responded to complaints about the pre-1989 sterilization campaign primarily by arguing that the women consented to the procedures. In 1991, in the only known complaint of its kind, a group of 19 Romani women approached the authorities in Presov about sterilizations that had occurred between 1985 and 1989. The prosecutor rejected their complaint as groundless, arguing that sterilizations had been carried out only with the agreement of the women involved. Several of the women said that they had not consented and those who said they had consented maintained that they had done so only after social workers had pressured them. The women also pointed out that the state's offer of a large amount of money to women who agreed to be sterilized put tremendous pressure on Romani women living in abject poverty. The prosecutor rebutted their arguments by maintaining that sterilizations performed with the women's consent were legal regardless of the circumstances.¹²⁰ In October 1991, the Czech Helsinki Committee appealed the prosecutor's decision, but the appeal was dismissed and the case closed.¹²¹ When the issue has arisen in other forums in Slovakia, officials have again argued that the Romani women consented to the procedures. In 2000, a member of Slovakia's parliament and the chairman of its Committee for Human Rights and Nationalities denied a report presented in the European Parliament that Romani women were sterilized against their will.¹²²

In a report submitted to the UN Committee on the Rights of the Child, Slovakia's previous government openly recognized that the sterilization policy was directed at Romani women but presented it as a form of "affirmative action" for the Roma. According to the report: "The communist regime took every opportunity to manifest its ideals of social justice and equality. As a part of this effort, Roma became an object of intensive integration into the uniform mass of communist society, despite the fact that the Romani population differed from the rest of the society by their cultural heritage and way of life. Romani families typically have more children and are used to living in colony-like communities. The official government policy used to treat Roma more favorably than the rest of the population [and the] government . . . paid Romani women sterilization allowances."¹²³

Despite the claim that sterilization was a kind of "affirmative action" for Roma, the balance of the evidence and the arguments indicate that the campaign and its procedures violated international law and constitutional protections. Some Romani women were informed that they were going to be sterilized before the procedure took place; but it is unclear whether the doctors fully advised them before the operations about the irreversible nature of the procedure and certain and potential medical side effects.¹²⁴ Many Romani women dispute the doctors' accounts of how much information they were provided and how free their choice was in the face of pressure from social workers and others. The size of the financial incentives offered relative to the women's low socioeconomic status also raises legitimate questions about the fundamental fairness of the "transaction."

Finally, if this program was so beneficial to the women, why didn't more non-Romani women seek out these procedures? And why did the state not sponsor more of these operations for non-Romani women? Slovakia has a clear duty to investigate these issues more fully and to take legal action against persons responsible for any violations of law.

Romani organizations demanded that the sterilization campaign be halted and condemned as attempted genocide.¹²⁵ To date, however, no one has been brought to justice in connection with the communist regime's systematic sterilization of Romani women.¹²⁶

4.2. Calls to curb growth of Romani population in the 1990s

The size of Slovakia's Romani minority and its growth rate, which is approximately three times that of the population in general,¹²⁷ have been a constant subject of social and political debate in Slovakia. Politicians in particular have expressed concern about the growing size of the Romani community. As early as 1993, Prime Minister Vladimir Meciar, speaking about the Roma's higher birth rates compared to the non-Romani population, told a crowd in Spisska Nova Ves: "We ought to take into consideration . . . the extended reproduction of the socially inadaptible population. Already children are giving birth to children — poorly adaptable mentally and socially, with serious health problems, who are simply a great burden on this society. . . . If we don't deal with them now, then they will deal with us in time."¹²⁸ Two years later, the then Minister of Health, Lubomir Javorsky, stated: "The government will do everything to ensure that more white children than Romani children are born."¹²⁹ In 1998, Slovakia was becoming a "Gypsy republic" according to one Slovak National Party leader: "I have the feeling that in 10 or 15 years we are not going to be the Slovak Republic but the Gypsy Republic if the Romani population continues to increase at this speed."¹³⁰

Between 1999 and 2000, newspapers frequently published inflammatory estimates of the the number of Roma. Representatives of Smer and the Slovak National Party (SNS), which are well known for their anti-Romani positions, maintained that there would be more than 1.2 million Roma in Slovakia by 2010,¹³¹ more than twice the current number. Slovak fears have been further fueled by news stories announcing that in less than two generations, by the year 2060, Roma will outnumber Slovaks and will form the majority of the country's population.¹³² Scholars point out that these estimates are irrational simplifications of demographic processes, which use quantitative parameters such as the average number of children per Romani woman, and ignore other important factors such as high-infant mortality rates and shorter life expectancy among Roma.¹³³ Yet such factors have been given little consideration in the steady flow of articles with headlines such as: "More and More Romani Children: Births Out of Control."¹³⁴

In a conversation with the *New York Times*, one local official from Eastern Slovakia intimated that Slovakia's government should impose population controls on the

Roma. He mentioned some statistics about the rising Romani birthrates and population in the town of Rudnany. He laughed and said they needed a “Chinese fertility program.” When asked if he meant forced sterilization he chuckled again.¹³⁵

One doctor suggested that reintroducing financial incentives for Romani women who agreed to be sterilized would check the growth of the Romani population. “This year we documented the highest Romani population birthrate in history . . . and [the rate] keeps growing,” Dr. Ivan Voloin, head of the maternity department at Rimavska Sobota hospital, told the press in July 2000. “[T]wenty years ago . . . mothers of three or four children were offered 5,000 to 30,000 crowns to undertake a sterilization. In one year, 160 women were sterilized. . . . Now, those who are interested in sterilization have to pay a minimum of 8,000 crowns, which is not possible for Romani women. They don’t have even 3,600 crowns to pay for an abortion,” he said. “I have been arguing for years that policymakers should visit us and live in the town for at least two months and then consider the seriousness of the problems, make decisions, and propose solutions.”¹³⁶

Slovakia’s Ministry of Health has also suggested that a declining Slovak birthrate coupled with a high Romani birthrate could have a deleterious effect on the overall population. In a position paper generated for the national strategy for sustainable development issued in October 2000, the Ministry of Health states: “The strategy should stress that demographic development is of utmost importance for the sustainable development of the Slovak Republic. . . . If the actual tendency of natural population growth is not reversed, . . . the natural growth of the Slovak residents will stop around the year 2010. It will then start to decrease and the number of residents of the Slovak Republic in 2045 will be lower than five million. . . . If we do not succeed in integrating the Romani population and modify their reproduction[,] the percentage of nonqualified and handicapped persons in the population will increase.”¹³⁷ In other words, since a greater percentage of Roma are nonqualified and handicapped than non-Roma, the overall quality of the population of Slovakia will suffer if the state does not reduce the Romani birthrate.

Fresh memories of the communist sterilization campaign and the aggressive calls to limit the number of Romani children have created, among Roma, an atmosphere of fear and reduced an already meager level of trust in the health care system. Many Roma fear that Romani women are sterilized without consent, that doctors often exaggerate the danger of Romani patients’ medical conditions in order to propose or perform sterilizations, and that the government will adopt new programs aimed at pressuring Romani women to undergo sterilization procedures.

4.3. **Alleged recent sterilizations**

On the basis of testimony from Roma and the direct observations of medical personnel working with NGOs, concerns have emerged over possible cases of recent forced sterilization of Romani women in Eastern Slovakia. In the summer of 1999, the migration of

Roma from Slovakia to Western Europe intensified.¹³⁸ More than a thousand Roma applied for asylum in Finland during that year, claiming systematic persecution in their country. The Finnish government rejected the asylum requests; and the majority of the asylum seekers returned to Slovakia. However, during their stay abroad, they were in contact with local Romani and refugee organizations and had the opportunity to speak openly about their situation in Slovakia. Their testimonies and existing evidence, although circumstantial, give some reason to believe that Slovakia's state authorities should investigate current practices in several maternity wards in Eastern Slovakia.

In November 1999, nurses working in several refugee reception centers in Finland informed Amnesty International that a significant number of Romani women from Slovakia seemed to have been subjected to various types of gynecological interventions, and some seemed to be unaware of what had been done to them. Serious concerns that something unusual had happened arose when the women reported that they had not used any contraception and had not become pregnant after undergoing cesarean sections and other interventions performed in hospitals in Slovakia after 1990.¹³⁹ Amnesty International in Finland gathered data, including a breakdown of the type and rough date of the interventions. The Finnish organizations stressed that almost no Romani women alleged that they had been sterilized. The sterilization issue arose when they reported their medical histories during routine checkups. Virtually all of these women came from the Kosice region.¹⁴⁰

Government claims that sterilization for contraceptive purposes stopped after the fall of the communist regime are contradicted by other recently discovered cases. Health care personnel affiliated with the immigrant reception center in Alavus, Finland, reported that they examined 60 Romani women and found that three had been sterilized. Two of the sterilized women were subjected to the operation after the transition, in 1991 and 1992, respectively, and the third woman did not know when she had been sterilized. Nurses from Kemijarvi also reported a case of a 25-year-old Romani woman from Kosice who was sterilized in 1991.¹⁴¹

According to Finnish medical personnel from the reception centers, the Romani refugees had a very high rate of hysterectomies and cyst operations. A number of Romani women also reported being unable to become pregnant even though they had no knowledge of any conditions that might prevent them from conceiving.

- ▶ One Romani woman maintained that she had not conceived since undergoing a cesarean section in 1993.¹⁴² Another one, who had a cesarean section at the age of 18 in 1998, had no pregnancies thereafter.¹⁴³
- ▶ A Romani woman, who had given birth in a local hospital in 1996 at the age of 21, reported that doctors did something to her after she gave birth and that she had not become pregnant, despite the fact that she had not used any method of contraception.¹⁴⁴

- ▶ A doctor in Slovakia reportedly sterilized a 21-year-old Romani woman in 1999 after she had given birth to three children by cesarean section. The doctor reportedly told her that she could not have any more children and sterilized her despite her objections.¹⁴⁵
- ▶ Doctors removed the ovaries of a 36-year-old Romani woman from the Kosice region in 1999 and did not give her any compensation or treatment after the operation.¹⁴⁶

Further research on these cases was not possible, because the government of Finland repatriated nearly all asylum seekers within months of their arrival.

Author interviews with Romani women in Eastern Slovakia elicited reports that were similar to those given to the personnel at the refugee reception centers in Finland. One woman, X.X., said she had undergone a cesarean section in a hospital in Eastern Slovakia in the summer of 1990. After that operation, she never got pregnant again, and she believes that the doctors sterilized her. X.X. wanted to undergo a medical examination to determine the exact cause of her sterility, but she does not have enough money, and health insurance does not pay for the required medical test.¹⁴⁷ In another case, a doctor sterilized a 17-year-old Romani girl after a miscarriage in 1998 and informed her only after the operation. Witnesses said she became very upset when a doctor told her that she would never be able to have children.¹⁴⁸

Allegations of recent sterilizations continue to emerge from Slovakia. Press reports suggested in 1998 that forced sterilizations were conducted on Romani women in poor villages in Eastern Slovakia.¹⁴⁹ Slovak researchers have found that Romani women from Sabinov are afraid to give birth in the local maternity hospital because they believe the hospital is performing sterilizations without informing or getting consent from women patients.¹⁵⁰

The European Roma Rights Center reports that, in many cases, doctors in Slovakia have continued to regard informed consent as optional when it comes to the sterilization of Romani women. Many doctors appear to believe that Romani women do not understand the issues presented and for that reason might not consent to sterilization.¹⁵¹ “The strategy of the doctors nowadays is to tell us that we need an operation,” said one Romani woman from Kezmarok. “They would not explain why. They just tell women that sterilization must be done.”¹⁵²

The government of Slovakia has denied assertions that health care workers are sterilizing Romani women involuntarily. On 9 March 2000, the Roma Rights League (OPRE Roma), a Belgian NGO, informed the press of several Romani women who had testified in Belgium that doctors in Slovakia had sterilized them after they had given birth.¹⁵³ The Slovakian government’s Office of Human and Minority Rights denied any knowledge about such practices and characterized OPRE Roma’s statements about the

situation of ethnic minorities in Slovakia as “unfounded.”¹⁵⁴

As a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),¹⁵⁵ Slovakia is obligated to ensure equal access to health care services, including those related to family planning,¹⁵⁶ and to ensure the right of women to be fully informed of their options, including the benefits and potentially adverse effects of treatment.¹⁵⁷ Access to quality care services requires, among other things, the acceptability of these services to the patient. In its General Comment on “Women and Health,” the UN Committee on the Elimination of Discrimination against Women defines acceptable services for women as “those which are delivered in a way that ensures that a woman gives her fully informed consent, respects her dignity, guarantees her confidentiality and is sensitive to her needs and perspectives.”¹⁵⁸ Nonconsensual sterilization is a form of coercion that violates, among other things, a woman’s right to informed consent.¹⁵⁹ Furthermore, when mandatory health insurance pays the fees of doctors who carry out these kinds of operations, the state, by subsidizing these procedures, is complicit in inflicting harm upon women.

Slovakia must fully investigate all serious charges of misconduct by the country’s health care professionals and workers. If these specific allegations are true, then the state must investigate and prosecute those persons who have violated the rights of the victims. Even if the allegations cannot be fully substantiated, Slovakia should adopt clear, uniform procedures for all health care facilities and for all patients so that there cannot be any doubt as to whether the patients have consented to the operations that doctors are performing on them. In this way, the health care system will function better, not only for the Roma, but also for all of Slovakia’s people.

5. Legal Provisions That Have a Disparate Impact on Roma

Slovakia’s Public Health Act requires that those persons who participate in the country’s noncontributory health insurance program have permanent residence status in Slovakia. Loss of permanent residence status or the inability to secure permanent residence in Slovakia disqualifies indigents from receiving noncontributory health insurance.¹⁶⁰

As discussed in other sections of this report, many of Slovakia’s Roma have difficulty in obtaining and maintaining permanent residence status. Local officials may not register Roma who returned or were expelled from the Czech Republic, especially if they lived there for a long time.¹⁶¹ Romani asylum seekers obliged to return to Slovakia from abroad experience similar difficulties. Some of them no longer have residence for a variety of reasons, e.g., some have sold their flats, some have not resided in their rented flats for an extended period of time, and some have had their houses demolished. The reluctance of some local authorities to register Roma upon their return to Slovakia limits their access to permanent residence status. The lack of permanent residence status bars such Roma from access to noncontributory health insurance, because the state of Slovakia does

not pay the health insurance contribution for nonresidents, even if they are Slovak citizens and indigents.¹⁶² One Romani activist noted that NGOs are finding more cases of individual Roma who do not have access to the health care or social assistance systems because they do not possess permanent residence status and the identification cards that come with it.¹⁶³

Of course, persons who are not indigent can gain access to the health insurance system by paying their contributions to it. However, as described in the Social Protection section of this report, few Roma have the wherewithal to make these payments on their own. Furthermore, it is inappropriate for local officials to refuse to grant Romani citizens of Slovakia permanent residence status and thereby prevent them from receiving noncontributory health insurance, a major social benefit.

More investigation is necessary to determine whether the percentage of the Romani population without permanent residence status is greater than the percentage of the non-Romani population lacking this status, though, as discussed in the Social Protection section above, it is likely that this is the case. The refusal of local authorities to grant Roma the residence permits they rightfully deserve appears to impede, in a racially biased manner, the access these people have to health insurance benefits. Although the state may have good reasons for wanting to ensure that each recipient of health insurance benefits has permanent residence in Slovakia, these requirements should not be used to discriminate against Romani citizens, a group that is in dire need of these benefits.

6. Other Health Care Concerns

6.1. Vaccinations and vaccine preventable diseases

Although Slovakia reports relatively high immunization rates, Romani children frequently suffer from diseases that can be prevented with vaccines. Outbreaks of meningitis, measles, and polio among Romani children suggest disparities in the rates of immunization of the Romani and non-Romani populations. When such outbreaks have occurred, health care officials have given a variety of responses. In some cases, they have come up with excuses in response to short-term emergency situations; in other cases they have blamed the Roma for not taking adequate measures to protect their health and the health of their children. Other officials have placed the burden on the Roma to obtain vaccinations and to prove that they have been immunized. Slovakia should undertake a comprehensive, nondiscriminatory campaign to reduce the incidence of vaccine preventable diseases in the Romani population and to improve their health.

Slovakia's Romani population appears to suffer more from communicable diseases than the population of the country as a whole. Serious diseases such as meningitis continue to undermine the health of Romani communities, which are the only communities in Slovakia still affected by the disease.¹⁶⁴ For example, in the spring of 2000

four new cases of meningitis in the Romani-inhabited areas of Michalovce threatened the health of 300 Romani children. In 1999 and 2000, hepatitis outbreaks occurred in Lunik IX, as well as in the Romani settlement of Medeny Hamor in the summer of 2000.¹⁶⁵ Hundreds of new cases of measles have been registered in a single year, with a disproportionate number of Romani persons affected.¹⁶⁶

Given the number of these outbreaks in the Romani community, some investigators and researchers have begun to question whether the state is taking sufficient steps to vaccinate Romani children. At a seminar entitled “Roma and Health,” researchers suggested that certain doctors have reported some children, and particularly Romani children, to be immunized when in reality they are not.¹⁶⁷ Suspicions about “vaccinations on paper” have arisen because hundreds of new cases of measles continued to occur each year between 1994 and 1998, even though the state health authorities reported that almost all children have been vaccinated against this disease.¹⁶⁸

In some cases, state health officials refused to immunize at-risk populations during outbreaks of vaccine preventable diseases in Romani areas. For example, there were no special immunization programs during hepatitis outbreaks in Lunik IX in 1999 and 2000 or in Medeny Hamor in 2000. In other cases, health care workers immunized only a small percentage of those persons who could have benefited. The meningitis outbreak in Michalovce in the spring of 2000 endangered 300 Romani children, but only 10 percent of them actually received vaccinations.¹⁶⁹

Some local officials have responded to outbreaks by imposing emergency short-term measures that do not address the long-term health concerns of the Roma. For example, when hepatitis hit the Romani settlement of Medeny Hamor in the summer of 2000, the only measure undertaken by the authorities was to send in more police patrols to stop Roma from scavenging food and clothing from the garbage, which was considered the main cause of the disease. Three children and one woman were hospitalized, and many more people got medicine to use at home. Vaccinations likely could have helped with the immediate problem and would have had long-term benefits, such as minimizing or eliminating future outbreaks.

In other cases, public health authorities blamed the Roma for not taking preventative measures. During the meningitis outbreak in Michalovce, medical workers said only 10 percent of the children were vaccinated because Romani parents did not bring them to doctors. They claimed the Roma do not understand the seriousness of the disease.¹⁷⁰

Some local authorities have adopted regulations aimed at requiring Romani parents to respect vaccination programs. A pediatrician from Sabinov said the social assistance office requires Romani parents to obtain a written confirmation that their children have been vaccinated as a precondition for receiving child allowances. “The rule is applied to Romani parents only,” the pediatrician said. “The others are never sent to me to confirm vaccination.” The doctor said that her Romani patients were relatively well off and

questioned whether the state even needed to encourage them to vaccinate their children. “My Romani patients live in the city of Sabinov, relatively well, and they treat vaccination in the same manner the non-Romani do,” the doctor said. “There is no reason to impose a special requirement for them. Maybe the social assistance office is well intentioned, but their rule does not respond to a real need, is rooted in prejudice, and results only in humiliation and undue hardship for Romani parents.”¹⁷¹

Slovakia has constitutional and international obligations to assist its citizens in improving their health.¹⁷² Furthermore, the government must ensure that its health care employees do not provide services in a discriminatory manner. Slovakia’s health authorities do not undertake comparative studies, so it is difficult to determine conclusively whether the immunization coverage of Romani children is less than the coverage of non-Romani children. However, the outbreaks of vaccine preventable diseases appear to occur with greater frequency in Romani rather than similar non-Romani neighborhoods and this suggests that fewer Romani children are being immunized.

It may be more difficult for the state to vaccinate the Roma, who are sometimes afraid of vaccines for a variety of reasons.¹⁷³ But Slovakia should ensure that its health care system does not go about justifying systemic failures to immunize Romani children based upon the argument that Romani parents are reluctant to have their children vaccinated. Every child is entitled to immunization, not only those who are easy to reach. National immunization plans must also not single out the Roma or impose vaccinations solely on them, as was the case in Sabinov. Immunization policies must address not only the children of well-educated, more-affluent parents, but also children from the most isolated and backward Romani settlements. By making an investment in preventative health care, the government can preempt many public health problems before they occur. The health authorities and Romani NGOs must join forces to root out any discrimination against Romani children in immunization programs.

7. Access to Emergency Services

Many factors make it difficult for Roma to access emergency medical services, and some of them appear to be directly related to racial discrimination against them. Roma contend that emergency-care personnel are often reluctant to administer first aid and that significant delays in emergency service are more often the rule than the exception. Doctors say some Roma misuse the emergency medical services and maintain that the health care system is justified in paying less attention to Romani requests for urgent assistance.¹⁷⁴ They say that it is not surprising that hospitals sometimes do not dispatch ambulances when Roma call, or dispatch them with some delay because it is known that Roma abuse ambulance services.¹⁷⁵ Yet there is no credible evidence that Roma abuse the emergency medical services any more than any other group, and it appears that racial bias may affect health care workers’ responses to Romani requests for emergency services.

Other factors reduce Romani access to emergency care. Many Roma live in settlements located in remote areas, far from hospitals and sometimes accessible only by the poorest of roads, making it very difficult for emergency service personnel to reach these areas.¹⁷⁶ The lack of street lighting and the narrowness of the streets can also impede ambulance access to homes in the settlements. The lack of public and private telephones in and around the settlements makes calling for emergency help impossible.¹⁷⁷ Racial discrimination against the Roma plays a role in the location of these settlements, in their lack of development, and in the quantity and quality of the services they enjoy. Therefore racial discrimination can play a role in reducing Romani access to urgent medical treatment.

A complex combination of factors is often responsible for failure to provide Roma with emergency medical care. In August 2000, for example, a Romani heart patient from Jasov died reportedly because a local doctor refused to attend to him and because a bad road prevented an ambulance from reaching the settlement.¹⁷⁸ There are reports of ambulance crews refusing to enter Romani settlements in Presov,¹⁷⁹ and hospitals refusing to send ambulances to Jejkov.¹⁸⁰ In Kolackov, Roma had to pay non-Romani villagers to transport their sick relatives to the hospital after emergency personnel refused to come.¹⁸¹ Perhaps it was racial prejudice on the part of health care workers that led to these failures to provide emergency treatment. Or perhaps the health care personnel had legitimate concerns about their ability to enter and leave the Romani settlements and to provide medical care in a timely manner. Regardless of the causes and motivations, Roma often do not receive the care they need.

Two separate fact-finding missions undertaken two years apart found that Slovakia's government had not improved access to emergency care in certain communities. In the spring of 1999, a team from the European Commission visited Letanovce. In its report, the team noted: "Medical care is truly lacking. Mothers often give birth in the settlement, because there is no transportation to the hospital. . . . According to the inhabitants, ambulances do not come to the village and those in need of medical care cannot walk the three and a-half kilometers."¹⁸² Two years later, when the author of this report visited Letanovce, the situation was unchanged. Inhabitants complained that the local authorities failed to keep their promises to install a simple telephone line. "People are dying, and we cannot call the ambulance," one resident reported. "Sometimes we have to run in the night more than three kilometers to the public phone. . . and by the time we get there, it is too late."¹⁸³

Slovakia's government is required under constitutional provisions and international agreements to provide for the health care needs of its population. In providing health care services, the government cannot discriminate on the basis of race. Slovakia's Romani community is in real need of better emergency medical care. Instances of direct

and indirect discrimination in providing the Roma access to emergency medical services appear to be frequent in Romani settlements. The refusal of doctors or ambulance crews to attend to Romani patients and the failure of doctors and ambulance crews to provide care in a timely manner due to racial bias constitutes direct discrimination. Indirect discrimination occurs when the remoteness of health care facilities and the lack of communications facilities and other infrastructure in Romani settlements affect access to emergency care to a greater extent than these factors affect similarly situated members of the majority population. The state has the obligation to address both forms of discrimination. It is obligated to sanction medical professionals and staff workers who display racist attitudes. And it is obligated to ensure that Roma have timely access to ambulances and health facilities.

The Romani communities of Slovakia suffer some of the most appalling living conditions that exist in Central and Eastern Europe. Many settlements have no running water or electricity. The water in the wells is often contaminated. Tuberculosis breeds in the overcrowded houses.

Lack of Adequate Housing

The issue of housing is particularly difficult for Slovakia as it undergoes the transition from communism to a market-based economy. An increasing number of people, both Roma and non-Roma, are at risk of being deprived of housing. This risk arises from general impoverishment due to decreasing employment opportunities for unskilled workers, changes in social protection policies, and the impact of privatization.

Slovakia's Constitution incorporates international human rights instruments that recognize the right to adequate housing and the prohibition of discrimination in the enjoyment of that right. Although the Constitution guarantees the legal right to housing, exercising this right is often impossible for Slovakia's poorest people in general and for its Roma in particular.

In addressing Romani housing conditions and implementation of the right to adequate housing, policymakers and researchers must keep three factors in mind. First, there is a clear difference between the standards of living enjoyed by the relatively few Roma who are highly integrated with the national majority and those Roma who are not. Intermingled with the rest of the population and hardly recognizable, the "integrated" Roma share equally with the rest of the population the country's economic problems and the enjoyment of their personal wealth. While acknowledging the existence of this cate-

gory of persons, this report does not examine their circumstances in detail. Rather, this report focuses on the poorest segments of the Romani population and on their housing problems. Second, generalizations about “Roma” need to be carefully avoided. Clear distinctions must be drawn between various groups of Roma when assessing their housing needs and their living conditions. Third, housing issues are closely connected to a historical context, e.g., the circumstances in which various Romani groups were obliged to settle, and the events of the last decade.

To assess the extent to which state agencies and private persons discriminate against Slovakia’s Roma or fail to address the inadequate housing available to the Roma, this section of the report describes the housing conditions for Roma of Slovakia; the support of the public and politicians for segregated housing for the Roma; direct discrimination against Roma as individuals and as a class of persons when trying to register as residents; differential treatment in the provision of basic municipal services, such as electricity, transportation, garbage collection, and running water; and the process by which the state supports racial segregation and facilitates the creation of Romani ghettos.

1. Romani Housing in Slovakia

The Romani communities of Slovakia suffer some of the most appalling living conditions that exist in Central and Eastern Europe. More than 120,000 Roma live in isolated settlements in Eastern Slovakia, a region not three hours drive from Vienna. In many of these settlements there is no running water and no electricity. Some have no roads linking them with the outside world. When roads exist, they are often so scarred by potholes and clogged by mud that no bus or ambulance can use them. Rat infested garbage dumps are frequently located near Romani settlements. The water in the wells is often contaminated, because the settlements lack adequate sewage systems. Tuberculosis breeds in overcrowded houses that have no heat in the wintertime. The deplorable conditions of rural ghettos are only matched by urban ones, such as the Lunik IX settlement, located in a segregated area near Kosice, where municipal authorities have concentrated 4,000 to 5,000 Roma.

The former communist regime implemented a policy of systematic assimilation of the Roma. This policy focused on employment, health, education, and housing. In 1958, the state of Czechoslovakia forced the country’s nomadic Roma to settle in places designated by the authorities under the “Law on the Permanent Settlement of Nomadic and Seminomadic People.” By the mid-1960s, the government adopted a policy aimed at a “guided dispersion” of Roma, which was supposed to create a more uniform distribution of Roma across Czechoslovakia’s territory.¹

Thousands of Romani families moved from their settlements in Eastern Slovakia to new areas throughout the country during the implementation of these policies. Some of these Roma moved voluntarily after being encouraged by the state; others were

displaced forcibly. The state transferred a large number of Roma to industrialized areas that are now a part of the Czech Republic. These policies were supposed to put an end to the nomadic traditions of the Roma, eliminate their settlements, and prevent a high concentration of Roma from developing in one place.

The efforts to desegregate and “urbanize” the Romani population continued in 1972 with the adoption of a decree encouraging Romani families to relocate from villages to towns and communes.² Roma received apartments among non-Romani people in city centers or in industrial areas near the large factories that employed them. Despite these efforts, the Romani settlements did not disappear. And, by the end of the 1980s, Slovakia still had approximately 278 of them.³

The fall of Czechoslovakia’s communist regime found Roma living in both rural and urban areas. Most of the Roma living in the cities were renting municipal apartments that the previous regime had allotted to them. A few of them were able to buy their flats from the municipalities at relatively low prices.

Many Roma lost their jobs in the economic crisis of the early 1990s. Unemployed Roma found it difficult to pay their rent and their water and electric bills. Some of the Roma sold their apartments and bought small houses in the countryside.⁴ Municipalities evicted those who did not pay rent. Some of the evicted moved in with relatives who were also living in the cities; others moved into cheap and often segregated alternative housing on the fringes of urban areas; and still others returned to the rural settlements.⁵ Overall, this process, according to one researcher, led to their “forced concentration in existing Romani settlements, urban quarters or individual apartments, which are often overloaded and devastated.”⁶

This movement of people left a handful of Roma living in non-Romani neighborhoods in Slovakia’s cities. These Roma are integrated and difficult to distinguish from the Slovak majority. The vast majority of Slovakia’s Roma, however, live apart from the country’s non-Romani population. Their separation takes several forms, from a life apart in small, exclusively Romani neighborhoods, or ghettos, to severe segregation in rural areas. In rural areas, scholars distinguish mainly between segregated settlements — groups of houses that are situated from 100 to 3,000 meters from the nearest villages, and separated settlements — groups of houses at the very margins of villages.⁷

Romani settlements have increased in number and size over the past decade. There were 278 settlements in 1988, 516 in 1997,⁸ 591 in 1998, and 616 in 2000.⁹ The increase has resulted at least in part from a population increase, and the creation of new settlements during the migration of impoverished Romani families from urban centers to the countryside. The larger number may also have been skewed by changes in the criteria national and local authorities use to determine what constitutes a settlement, i.e., some Romani communities that were counted as a single settlement in the past may now be counted as two or more settlements. According to Ministry of Labor, Social Affairs and

Family statistics published in 1998, more than 124,000 Roma live in the settlements. Almost 50,000 of these Roma are children, and half of them are under six years of age. The average unemployment rate in these settlements is 88.5 percent. In total, there are approximately 13,000 housing units with an average of almost nine people per dwelling.¹⁰

The quality of the housing stock and infrastructure varies depending on the region and the level, or lack, of integration the settlements have with the surrounding community. There are relatively fewer Romani settlements in the economically stronger central and western regions of Slovakia. In these regions, even the Romani families who live separately from the non-Romani population tend to live in houses of brick and concrete.¹¹ In the so-called “marginalized” regions in Eastern Slovakia, such as Banska Bystrica, Presov and Kosice, the number of separate Romani settlements increases dramatically.¹² Romani dwellings in these areas are simple shelters constructed mostly of wood and clay.¹³ Many have been built without the permission of the local planning authorities and on land that does not belong to the Roma. The settlements are often not connected to basic infrastructure networks.¹⁴ One of every three Roma, in other words, one in every 40 Slovak citizens, lives in these settlements, far beyond the mainstream of Slovak society.¹⁵

Slovakia has two sets of data on Romani settlements and the Romani housing situation. One was compiled by the Ministry of Labor, Social Affairs and Family in 1998,¹⁶ the other is an update compiled by the Ministry of Environment in 2000.¹⁷ Although some researchers question the accuracy of these data sets,¹⁸ they do provide a substantial amount of information on the number of settlements in each region of Slovakia, the legal status of the houses, and the level of services. Apart from these government efforts, sociologists have conducted an impressive amount of research on the Romani settlements in Slovakia. Furthermore, Inforoma, a Bratislava-based Romani NGO, has undertaken a study of Romani settlements, including information about their access to utilities, education and health facilities, and relations between Roma and non-Roma; it will publish its findings in the second half of 2001.¹⁹

2. Political and Popular Support for Direct Discrimination

Several local and national political leaders systematically blame the Roma for creating problems for non-Roma. These leaders have called for the state to separate the Roma from the rest of the population. Public-opinion surveys indicate that many of Slovakia’s people support these views.

Politicians have stated that their non-Romani constituents do not want to live with the Roma and that the Roma must be set apart from the majority population. By the end of 1999, Marian Mesiarik, a member of parliament for the Civic Understanding Party (SOP), told the press that “coexistence with Roma was becoming increasingly dif-

difficult and people in general were getting fed up.”²⁰ Viazoslav Moric, a member of the Slovak National Party (SNS), called for the creation of reservations for Roma. “For those who cannot adapt it is necessary to create reservations,”²¹ Moric said, “because if we do not create them now, the Gypsies will create them for us in twenty years.”²² During a parliamentary debate on 21 September 2000, Michal Drobny, a member of parliament from the Movement for a Democratic Slovakia, compared the Roma to “locusts” and said they “must be isolated because coexistence is impossible.”²³ Some mayors, who play an essential role in dealing with Romani residence and housing issues, do not hesitate to express anti-Romani feelings publicly. The former mayor of Mendez, which contains the Romani settlement in Svinia, said that the only solution to Slovakia’s Romani problem was to “shoot them all.” He later added: “I am no racist . . . but some Gypsies you would have to shoot.”²⁴

Opinion polls taken over the past decade have indicated that the majority of Slovakia’s population does not want to live with or near Romani persons. Two-thirds of the respondents to a survey conducted by the Public Opinion Research Institute in 1998 declared that the Roma should live in separate settlements. Some 55 percent of the respondents in another survey conducted in 1999 agreed with the statement that Roma should not live together with non-Roma.²⁵ In surveys conducted between 1993 and 1999, almost 80 percent of the Slovak respondents said they would mind having Roma in their neighborhood.²⁶

In at least one rural area, most Slovak respondents said that they support continued segregation of the Roma. About 90 percent of the Slovak respondents in the village of Rudnany rejected the idea of allowing Roma to live in their immediate vicinity; 10 percent said they would allow Roma to live in the same village; 1.7 percent said they would allow Roma to live in the same area; and 0.8 percent said they would accept Roma in their neighborhood.²⁷ Rudnany may be an extreme example as tensions between Romani and non-Romani residents are high, and the Roma there live in particularly dreadful conditions. Nonetheless, the survey results indicate how deeply the Slovak population in one area of Eastern Slovakia wants segregation.

More than half of the Slovak population believes that the Roma should generally be subjected to stricter laws than the rest of the population.²⁸ Even a larger share believes the state should pass housing regulations to separate the Roma from the non-Roma. One national survey of adults revealed that 60 percent of the respondents were at least somewhat in favor of the government adopting measures that would ensure that the Roma would be segregated from the majority of citizens and have their own schools.²⁹ In Rudnany, 70 percent of respondents supported regulations that would separate the Roma and non-Roma.³⁰

Such strong anti-Romani sentiments shared by such a large number of people

create favorable conditions for racial discrimination and social exclusion. There have already been attempts to impose night curfews on Roma,³¹ to partition towns into Romani and non-Romani areas,³² and to forbid Roma to reside in certain areas.³³

Public opinion and political pressures must be considered by officials when making public policy. But public policies cannot violate constitutional provisions and international agreements that guarantee human and civil rights and forbid racial discrimination. One of the purposes of having a constitution and of ratifying international human rights agreements is to protect the rights of a minority from abuses by the majority.

3. Direct Discrimination

Slovakia's Constitution guarantees shelter³⁴ for those persons in material need.³⁵ But there are no specific legal provisions prohibiting discrimination in the area of housing; the only antibias provisions are those that appear in the Constitution and those international and European standards incorporated by reference. The European Commission against Racism and Intolerance (ECRI) and other bodies have noted this lack of legal protection in Slovakia and have recommended that the government prepare a comprehensive body of legislation covering racism and discrimination in housing and other areas.³⁶

3.1. Direct discrimination in residence status determinations

In the areas for which they are responsible, local officials have the responsibility and discretion to register persons as legal residents. Municipal governments grant residence permits only if the person concerned owns a house or flat or has the written permission of the owner of a house or a flat to live in it. The state imposes this requirement for administrative reasons in order to link each person in Slovakia to an address.

Permanent residence is also a *sine qua non* for obtaining or renewing an identity document (ID). IDs are the most important documents for citizens of Slovakia. Only with an ID can a citizen of Slovakia exercise his or her rights. Only with an ID can a citizen of Slovakia gain access to entitlements such as social assistance benefits, health care, and housing. In the eyes of all administrative institutions (except for the police) a person without ID essentially does not exist. To obtain an ID, citizens of Slovakia must produce a range of documents to prove their identity and domicile; these documents include a birth certificate, the title to a home or a flat, a letter from a landlord, and health certificates. The application for an ID must be endorsed by municipal officials.

The process for obtaining IDs effectively discriminates against Roma who face difficulties in completing the necessary forms, gaining the necessary supporting documentation, and having their applications processed by the relevant local authorities.³⁷ In the long run, Roma who are denied registration as permanent residents where they live are at risk of not being able to renew their identity card. This has a devastating effect on their lives. NGOs carried out a series of fact-finding missions between 1996 and 1998

in Lunik IX and Kosice,³⁸ Spisska, Nova Ves,³⁹ Michalovce, and Negov⁴⁰ and found that a large and growing number of Roma do not have valid identification documents.

Today, a significant number of Roma are living without permanent residence status in every municipality and every settlement in Slovakia. At least 200 of the 700 inhabitants in the Romani settlement of Letanovce, for example, do not have official residence status.⁴¹ Out of the 3,000 Romani inhabitants of Jarovnice, 350 do not have permanent residence. Members of 16 Romani families, including 65 children, who were evicted from their flats in the town of Banska Bystrica, were not registered as permanent residents of Medeny Hamor, the nearby Romani settlement where they live.⁴²

Roma lack official residence status for a variety of reasons. The most common involves the municipal authorities denying them residence status because the house or flat in which they live is “overcrowded”; these Roma often live together with spouses, parents, or relatives who are officially registered.⁴³ Roma returning from abroad are also denied residence status because they no longer have their own place to live. According to the International Organization on Migration (IOM), the number of Romani citizens without residence is increasing, not because of an increase in the Romani birth rate, but because permanent residence status is being denied to families who return to their settlements of origin. Another factor is that Romani evictees are placed into substandard dwellings that legally do not qualify as “houses.” Other Romani families have no other option but to live in welfare apartments or abandoned houses.⁴⁴

In addition to impeding Romani access to social protection and health care benefits, lack of permanent residence status can be used by local school administrators to deny Romani children access to educational facilities.⁴⁵ Lack of residence status also prevents Roma from exercising their right to vote.⁴⁶

The government has failed to articulate any measures aimed at addressing the problems Slovakia’s Romani citizens experience because of a lack of permanent residence status, even though the National Conference Against Racism has identified it as a significant issue.⁴⁷

3.2. Denial of official residence status

Local officials often discriminate against Roma when deciding whether to grant official residence status. Instances of this form of discrimination have allegedly occurred throughout the country, but most of the reported cases have taken place in Eastern Slovakia.

In one incident in 1994, local authorities in Trnava in Western Slovakia cancelled the residence permits of two Romani families, the Conkas and the Dunkas. According to the International Helsinki Federation, government officials put pressure on the man who was providing these families with housing to revoke his permission for them to live there. Trnava’s mayor allegedly told the man that it was “not in the [interests] of the town of Trnava to let any other Gypsy families settle [there].”⁴⁸

In another incident in the autumn of 1998, local officials in the city of Jelsava in Southeastern Slovakia denied permanent residence status to five Romani families who had purchased houses in the town.⁴⁹ According to the ERRC, Jelsava's mayor, Ondrej Mladi, acknowledged that the city council broke the law when it denied the Romani families residence status. But he argued that the decision was taken because the townspeople feared a "deterioration of the town's socioeconomic situation and possible increases in crime" and wanted to discourage other Roma from moving in. The mayor said people in the town feared that granting residence status to the Roma who bought the houses would trigger a wave of Romani migration into abandoned houses in Jelsava, which were selling at relatively low prices.⁵⁰

Slovakia's Helsinki Committee has reported that for six years the local authorities in Jarovnice refused to register a young Romani woman as a permanent resident even though she was living in the house of her husband with their three children. The mayor reportedly told her Helsinki Committee lawyer: "[H.G.] is not one of our residents. Let her go back to where she came from. We don't want her here. Take her with you to Bratislava. The best would be to take all the Gypsies with you."⁵¹

These incidents are not unique, and actions of the officials involved in them are not legal. Officials who deny permanent residence status to persons who comply with all the legal requirements violate their rights to freedom of movement and to reside anywhere within the territory of the state. When officials refuse to grant permanent residence status to a person because he or she is a member of a racial group, then the official in question has violated antidiscrimination laws. Slovakia has a duty to fully investigate incidents of this kind of discrimination, to take disciplinary or legal action against those agencies or officials found to have abused their authority, and to take steps to ensure that such violations do not occur again.

3.3. Municipal prohibition of Romani residence

Impermissible discrimination against Roma in Slovakia reached a new low when two municipalities took measures trying to bar Roma completely. On 9 June 1997, Rokytovec's municipal council adopted an ordinance providing for the expulsion of Roma who settle there.⁵² On 16 July 1997, Nagov's municipal council passed an ordinance that forbid Romani citizens from entering the village or from settling in shelters in the district.⁵³ These prohibitions were expressly based on racial criteria. In June 1998, the mayor of Cabiny, a nearby village, told the press: "Although Roma have permanent residence in Nagov and Rokytovec, the people from these villages did not permit them to enter."⁵⁴

In March 1999, three Roma challenged these ordinances before the European Court of Human Rights. Assisted by local council and staff attorneys of the European Roma Rights Center, they argued that the ordinances constituted acts of discrimination based upon race; that they single out Roma for differential and negative treatment by

using explicit racial classifications in violation of Article 3 of the European Convention on Human Rights (ECHR); that they invade the applicants' rights to respect for family life and privacy in violation of ECHR Article 8; that they illegally restrict their freedom of movement and choice of residence in violation of Article 2 of Protocol IV to the ECHR; and that they discriminate in the enjoyment of each of these rights in violation of ECHR Article 14. Finally, the plaintiffs' application before the court contended that the government of Slovakia itself had failed to afford the applicants effective remedies in breach of Article 13 of the Convention.

Both the Rokytove and Nagov municipalities, acting in response to the lawsuit⁵⁵ and intervention by the national government,⁵⁶ lifted the bans in April 1999⁵⁷ Problems, however, have persisted. In January 2000, the European Roma Rights Center complained to Slovakia's prime minister that conditions in Rokytove and Nagov had not improved. It reported that Roma from the two villages were still living on the bank of a river in the town of Cabiny in appalling conditions, effectively banned from entry to the other municipalities.⁵⁸ Furthermore, the municipal councils in Rokytove and Nagov have never acknowledged that their ordinances were illegal and have never provided any form of compensation for people negatively affected by them.

The United Nations' Committee on the Elimination of all Forms of Racial Discrimination found that the municipalities of Rokytove and Nagov had violated the Convention. Assisted by the European Roma Rights Center, a Romani applicant, Anna Koptova, submitted a communication alleging that Slovakia's government endorsed racial segregation policies in violation of Article 3 of the ICERD, and that the decisions adopted by the local councils infringed upon the applicant's right to freedom of movement and residence as protected by Article 5(d)(i) of the ICERD. In August 2000, the Committee determined that the decisions by the local councils violated provisions of the Convention guaranteeing freedom of movement and residence and urged Slovakia to "fully and promptly eliminate" practices restricting Romani freedom of movement and residence on its territory.⁵⁹

4. Access to Municipal Services

4.1. Electricity

Electricity is critical for all people who live in Slovakia. Most of the population depends on electricity to power basic appliances and the heaters that keep their homes warm during the winter months.

The access that Roma have to electricity for private use varies greatly. The Ministry of Labor, Social Affairs and Family reports that 96 percent of the houses in Romani settlements have "power supplies."⁶⁰ But the quality of those supplies varies significantly. Some Romani houses and apartments have direct access to electrical lines. Some Roma

pay their neighbors to tap into their lines. Some draw power from the main lines illegally.⁶¹ And others use car batteries to power their light bulbs and television sets.⁶²

The policies of electrical utility companies can make it difficult for Roma to secure electricity. First, the utility companies do not provide or install electricity for Roma who do not own the land on which their houses are built or who do not have proper building permits. These families must go without electricity or find other ways of acquiring the power they need. Second, power companies sometimes try to secure payment of unpaid bills in Romani areas by shutting off the electricity to entire apartment buildings, even if some of the tenants are not in arrears. Electricity is sometimes unavailable for weeks or months at a time in such buildings, many of which are legally built and legally occupied. Tenants who have paid their bills must suffer the darkness and cold along with the tenants who have not paid.⁶³

Approximately one of every six Romani settlements does not have public lighting of any kind.⁶⁴ The lack of streetlights makes these neighborhoods less secure and makes it more difficult for emergency personnel to enter the neighborhoods after dark.

4.2. Transportation

Many Romani settlements are located on the edge of villages or even two or three kilometers from them. Almost no Roma own private vehicles and few can afford to pay for taxis. They are extremely dependent on public transportation, relying on it to get to job opportunities, schools, health facilities, and government offices. Discriminatory practices, however, often impede Romani access to public transportation.

In some areas, the authorities have terminated bus service into areas where Roma live. For example, in the mid-1990s the authorities in the village of Letanovce terminated the public bus line that used to make the three-kilometer connection to a Romani settlement. Michal Urban, the mayor of the village at the time, explained in April 1996 to UNHCR representatives that “the bus link was terminated because the drivers complained of broken glass on the road and physical attacks.”⁶⁵ For several years Romani children did not have a bus to take them to their school, which is situated in the village. In April 2000, the public bus link was still not available. “The road is full of holes. The bus does not want to come here,” one Romani resident said. “The mayor had money to repair the roads, but they always repair their roads, not ours.”⁶⁶ Currently, a school bus organized by SPOLU, an international NGO, takes children to and from the school twice daily. But the rest of the settlement’s residents must walk.

Some bus drivers have not permitted Roma to ride in their vehicles because of their race. “In rural Slovakia, the bus stops in several standard points: in front of the church, in front of the city hall, at the pub, and near big crossroads,” the coordinator of the Minoritas Project in Svinia told the author of this report. “In Svinia, the Romani settlement is relatively close to the village and on one of the main roads, so the problem is

not the termination of the bus links or the absence of the bus station. The problem is the bus drivers' attitudes. When they see Roma waiting at a bus stop, they simply do not stop to pick them up." The project coordinator further reported that in 1999 he informed the director of the local bus company, Slovenska Autobusova Doprava, Presov, about the bus drivers' refusal to pick up Romani passengers. The director dismissed him by saying that "probably the drivers do not stop because the buses are full" and that transport regulations allow drivers to refuse to take dirty passengers.⁶⁷

Public transportation authorities have every right to be concerned about the safety of their employees and their equipment. However, not running bus lines to Romani neighborhoods and not allowing Roma to board buses punishes an entire group collectively because of the alleged misbehavior of a few. The government and public transportation companies can repair roads, run buses during certain hours, put additional staff on the buses, run more buses to pick up additional passengers, and take other measures to solve the alleged problems without cutting Romani access to this vital public service.

4.3. **Garbage collection**

Garbage collection is probably the single public service that municipalities in Slovakia most consistently deny to Romani communities. According to the Ministry of Environment, the percentage of Romani settlements without organized garbage collection varies regionally from between 5 percent to 60 percent. The worst situations seem to be in the Kosice region, where 57 out of the 97 Romani settlements lack garbage collection service. In Presov, 43 out of 227 settlements lack the service; in Banska Bystrica, 20 out of 111 settlements lack the service; in Trnava, 8 out of 12 settlements lack the service; and in Zilina, 4 out of 8 lack the service. In contrast, garbage collection services are reportedly provided to all Romani settlements in the regions of Bratislava and Trecin.

Field research shows that garbage collection services are inadequate in many Romani areas where the government contends there are no problems with it. While the Ministry of Environment's database provides information on which locations should receive coverage, it does not provide any details on the frequency or quality of the collections in the settlements, where, according to the database, garbage collection is organized. Sociologists have found that some settlements lack a sufficient number of garbage bins or that small, conveniently placed garbage bins are replaced with a single, huge garbage container located somewhere on the settlement's periphery.⁶⁸ The local authorities willing to admit to not organizing garbage collection in Romani settlements attempt to justify their decision by saying that the Romani settlements are illegal, that the Romani community is unable to pay for the service, and that there is a lack of access roads.

Placement of garbage dumps in the immediate vicinity of Romani settlements exacerbates health problems and can create conditions for epidemics of hepatitis and jaundice. Garbage dumps are adjacent or proximate to the Romani settlements of

Lozorno, Plavecky Stvrtok, and Male Lezare in Malacky-Bratislava. Local Roma complain that the municipal authorities deal with the garbage problem only when epidemics occur.⁶⁹

Although municipalities may not have much money to provide a garbage-collection service, they should allocate funds to the neighborhoods where they are most needed. Regardless of the legality of the settlements, or of the legal status of parts of these settlements, the government should provide regular and efficient garbage collection service to poor communities. It is highly likely that the public-health benefits and reduction in medical costs would offset the costs of establishing and improving garbage collection. Local officials cannot continue to deny the reality of these settlements and their need for services. Furthermore, refusal to provide garbage collection services to Romani communities, while other equally poor non-Romani neighborhoods are serviced, constitutes indirect discrimination based upon race unless local authorities can demonstrate that the lack of service has a legitimate aim. It is unclear how the reduction or the elimination of garbage-collection services along racial lines could be considered just or reasonable.

4.4. Water

The access that Roma have to safe drinking water varies greatly. The pattern seems to be that the farther a Romani dwelling is from a village or city, the less likely it is to have running water. According to official statistics, 48 Romani settlements do not have access to running water at all,⁷⁰ and the people in these settlements draw water from nearby streams,⁷¹ from water delivered in trucks by the local authorities,⁷² or from public water mains located in adjacent or nearby villages.⁷³ Wells are in use in 199 Romani settlements; but the quality of the well water can range from potable to contaminated. The remaining settlements have running water, although the data does not specify whether all of the houses are connected to water mains.⁷⁴ Even if a settlement does have running water, some of the households may not have access to it and others may rely upon pumps and wells.

The water situation in some Romani settlements is bleak. In Letanovce, more than 500 Roma share 30 to 40 housing units. The community's only well was ruined in 1993. The community had no safe potable water for several years;⁷⁵ and during this period 12 Romani children were hospitalized for consuming contaminated water.⁷⁶ The mayor reportedly refused to take any measures to improve the situation, stating that he would be ready to help the Roma build personal wells,⁷⁷ but not to furnish the settlement with an expensive pump.⁷⁸ Currently, there is one well, sunk by a foreign NGO, at the entrance of the settlement. In another settlement in a wooded area where the government helped relocate the Roma of Kolackov, Stara Lubovna, and Presov in 1943, more than a half century later, almost 200 people living in 35 houses draw their water from a single well.⁷⁹

Some local authorities have misused money earmarked for improving the delivery of potable water to Romani settlements. For example, a housing development program provided 600,000 Sk (approximately U.S. \$15,000) to the municipality of Bystrany in Spisska Nova Ves in 1997 for a wastewater treatment plant in the Romani settlement.⁸⁰ In 1998, the municipality obtained an additional subsidy of 150,000 Sk (approximately U.S. \$3,750) for the village water network.⁸¹ In May 1999, however, a fact-finding mission by the European Commission's delegation in Slovakia found that the only access almost 500 Roma in Bystrany had to water came from a single spigot that served low-quality potable water to the settlement's 50 or 60 housing units. Romani inhabitants claimed that, although many houses had been equipped with the necessary plumbing to bring the water inside, the mayor had refused to pipe the water to the houses because its quality did not comply with hygienic norms.⁸² As a result, all the households in the community lacked individual access to clean water despite the agreement between the municipality and the housing-development program to improve the quality and distribution of the water. The government's Roma office lists Bystrany among the Romani settlements lacking access to safe drinking water.⁸³

The lack of effective sewage systems and the presence of garbage dumps contaminates the well water in some Romani communities. Romani children from Rimanska Pila⁸⁴ and Jarovnice⁸⁵ suffer from diarrhea because of contaminated water. Seepage from nearby garbage dumps into wells has resulted in jaundice epidemics at several settlements in Rimavska Sobota.⁸⁶

Some mayors argue that municipalities cannot and should not provide water to Romani communities. They make three basic arguments that appear on the surface to have merit. Upon closer examination, however, these arguments either fail or are overcome by other priorities that the government has said it considers more important.

The first argument concerns the legality of the Romani houses. Some mayors say that some Roma build houses without authorization and that the local governments can provide water only to houses that are legally registered. While the first point is correct, the second is not. The law on municipalities permits a local council to install running water on its territory; the law has no provision explicitly prohibiting the municipalities from providing running water to illegal residences. In fact, a significant number of municipalities have already installed running water in Romani settlements where all of the houses were built without authorization.⁸⁷

The second argument touches on payment for water. Some mayors argue that many Roma are unemployed and that they have no money to pay for water.⁸⁸ However, it is illegal for public authorities to deny access to public services based on the presumption that an individual or a group of individuals will not be able to pay for these services. The mayors' presumption is also ungrounded because in Slovakia the cost of the water is not prohibitive, and unemployed families receive various social benefits which

help them to pay for water costs.⁸⁹

The third argument concerns the municipalities' financial resources. Some may argue that their municipalities do not have the funds to provide clean drinking water to everyone who needs it, especially those persons who reside some distance from the village centers.⁹⁰ However, Slovakia has signed international agreements that require municipalities to demonstrate that every effort has been made, and all available resources used, to satisfy, as a matter of priority, a basic minimum standard of living. The burden is on the governments to prove that the available resources have been used in an equitable and effective manner. Specifically, when "available resources" are demonstrably inadequate, municipalities must prove that they have strived to ensure the widest possible enjoyment of housing rights under the prevailing circumstances and that they have tried to obtain all available financial resources at the local, national, and international levels, such as governmental subsidies and funds from international organizations.⁹¹ While some municipalities may have financial difficulties, they have an obligation to provide, or to strive to provide, these basic minimums.

Access to clean drinking water is an important aspect of the right to adequate housing.⁹² The refusal by municipal authorities to provide drinking water to Romani communities might call into question compliance with the Convention on the Rights of the Child,⁹³ the Convention on the Elimination of All Forms of Discrimination Against Women,⁹⁴ the International Convention for the Elimination of Racial Discrimination,⁹⁵ and the International Covenant on Economic, Social and Cultural Rights.⁹⁶ Advocates for the Roma must further document instances in which municipal authorities have refused to provide Romani settlements and families access to clean drinking water and to pursue such cases in court if no other remedies are available.

5. Ghettoization of the Roma: Concentration, Eviction, and Segregation

5.1. Concentration

Lunik IX, an immense housing project at the terminus of a bus line on the outskirts of the city of Kosice, has been repeatedly linked to discriminatory policies based on race and implemented by the local officials. Lunik IX was built near a forest outside the town in 1980. It was supposed to house policemen and army officers. Today, however, Lunik IX is the biggest ghetto in Slovakia, housing 4,000 to 5,000 people. It became an exclusively Romani area after the municipal authorities decided to use it in 1995 to concentrate all of the city's deadbeat tenants, homeless people, and persons deemed to be unable to adapt socially.⁹⁷ (The last category, being a widely-acknowledged euphemism for Roma.) The housing stock in Lunik IX consists of bleak six-story, communist-era housing blocks in which the elevators do not function. Many flats do not have water or electricity. The sewage

system is broken. The school has a capacity of 340 pupils but must deal with 2,000. There is also a police station, a small grocery store that charges high prices, and a butcher's shop.

The local authorities routinely deny that there was any intent to discriminate against the Roma by moving them into Lunik IX. Kosice officials informed the Council of Europe that Lunik IX was designed to house "people with social problems, irrespective to their ethnic origin."⁹⁸ In 1999, they told a delegation from Denmark's immigration service that all the city's "socially maladjusted" residents are sent to Lunik IX, regardless of their race and ethnicity. Evidence collected by international and national organizations, however, clearly shows that Kosice's authorities made their decisions regarding Lunik IX with the Roma in mind. The same Kosice officials, in a discussion with an OSCE delegation from the office of the High Commissioner on National Minorities, acknowledged that the relocation program to Lunik IX was adopted mainly because the non-Roma were complaining about the presence of Romani tenants in the city center and because images of Romani children playing on downtown streets were a deterrent to tourism.⁹⁹ To other delegations, the officials described Lunik IX as a "favor" to the Roma, who are given help in living together and to "return to their natural way of life."¹⁰⁰ Statistics indicate that the percentage of Romani inhabitants in Lunik IX has increased dramatically in the past six years. In 1995, about 70 percent of the housing complex's residents were Roma.¹⁰¹ By 2000, Roma made up 99 percent of the complex's approximately 4,000 inhabitants.¹⁰²

Critics say that, although the text of the municipal council's decision does not single out Roma, the local authorities have implemented an active policy of removing Roma from flats in the central city and transferring them to Lunik IX.¹⁰³ Human rights NGOs point out that only Romani rent deadbeats are moved to Lunik IX, and that non-Romani deadbeats are offered substitute housing in different parts of the city. These NGOs also say that the local housing department is actively removing the remaining non-Romani residents from Lunik IX.¹⁰⁴

International organizations have criticized the practice of racial segregation and ghettoization in Slovakia. The European Commission against Racism and Intolerance wrote that "any practices aiming at segregating and isolating Roma in ghetto-like neighborhoods should be firmly condemned by the authorities" and urged Slovakia's authorities to take immediate action to ensure that such practices cease.¹⁰⁵ The OSCE's High Commissioner on National Minorities noted that arguments like the ones offered up by the authorities in Kosice to support the Lunik IX initiative — e.g., that the "Roma want to live together" — are too often used to justify segregationist housing plans that are carried out against the will of the Romani community.¹⁰⁶

5.2. Eviction

Local officials sometimes use formal eviction procedures to remove Romani tenants. They claim that the Roma are deadbeats — that is, that they have not paid their rent — or that they have not maintained their flats properly.¹⁰⁷ In some instances, they also maintain that the Roma being evicted do not have the necessary residence permits and therefore have no right to live where they are residing.¹⁰⁸ These reasons and arguments are often valid, but they do not take into account the impact that the difficult economic situation has had on the Roma as a marginalized group. Under normal procedures, indigent tenants have the right to repay their back rent; and if they are unable or unwilling to pay, they can file a case in court and eventually obtain substitute housing.

Often, municipal officials offer the Roma inadequate alternative housing in lieu of initiating the formal eviction procedure. In some instances, indigent Romani families are pressured to move out of their flats “voluntarily” and to accept alternative housing offered by enterprises that want to move their offices into the city center.¹⁰⁹ For example, in Poprad, most of the Romani families who once lived in the town’s center now reside in the industrial area in low-quality dwellings offered by private firms.

Indigent Roma frequently accept these offers. They effectively have no access to free or low-cost legal assistance to help them pursue administrative cases to avoid being evicted from their apartments. As a result, they are particularly vulnerable to pressure from the housing authorities. According to one Romani lawyer, officials repeatedly tell Roma who are being evicted that, “If you go to court, not only will you lose, but you will also be obliged to pay court fees, and your debts will be even higher. You and your children will end up in the street because you will receive nothing, not even the one-room accommodation without water which we are generously offering to you now.”¹¹⁰ These arguments are particularly effective with Roma who know that their current living situation violates the law.

In the mid-1990s, some municipalities started building flats, houses, or housing complexes in order to provide alternative housing for persons who were being evicted or were living in difficult circumstances.¹¹¹ This initiative, which under normal circumstances would be applauded, has apparently turned out to be a publicly funded mechanism to segregate the Roma. The flats or houses are built in isolated areas outside, or at the very edges, of these municipalities. They are equipped with minimal or no facilities or conveniences. Remarkably similar to the *holobyty* built in the Czech Republic,¹¹² these housing developments have become new Romani ghettos where there were none before.¹¹³

For example, in Spisska Nova Ves, Roma were moved from the city center to new, cheap housing in the existing Romani settlement of Vilcurna.¹¹⁴ There, the stores are poorly stocked, and the schools are some five kilometers away. In Dunajska Streda, the municipal authorities moved all evicted Romani rent deadbeats into a remodeled build-

ing in an area called Kraianska cesta, which is three kilometers beyond the edge of the city. In Gemer, Roma who have been evicted are moved into an urban Romani-only ghetto called Duavska cesta. The Slovak Helsinki Committee reports that not only Romani families evicted from municipal flats are living there, but also Romani families who regularly paid their rent and fulfilled their other obligations as tenants — a group that should be allowed access to municipal flats elsewhere in the city.¹¹⁵ In Kezmarok, officials plan to construct a “Romani village” outside of town for all Romani tenants residing in historic buildings in the center that require reconstruction. The mayor denied that building such a village is an attempt to “whiten” the city.¹¹⁶

In the 1990s, Banska Bystrica evicted Romani families so that the city could repair the city center. The Roma ended up in dormitories specially prepared for them in Internafta and Medeny Hamor. “The city hall was very interested in their flats in the center,” one activist reported. “But the housing department did not say that they were after Romani flats. They just suddenly decided to evict Roma who had not paid their rent without making any effort to help them repay. Many of them had only small debts, a couple of months or so of delay in paying the rent. But they did not care, because the administration did not want the money — but the flats.”¹¹⁷

The tendency of government officials to concentrate Roma together has also gradually made some small towns predominantly Roma. The town of Jaronica, for example, is already an example of this kind of ghettoization; 3,000 of its 4,000 inhabitants are Roma.¹¹⁸

There is no question that municipal authorities have the right and the obligation to protect municipal property against damage and to evict tenants for nonpayment of rent. They also have the right to initiate eviction procedures according to the law. However, anecdotal evidence indicates that municipal officials have targeted Roma for eviction. Local authorities do not speak about evicting non-Roma who are facing similar difficulties, and it does not appear that the municipalities evict the non-Roma at a proportional rate. Furthermore, Roma appear to only have the option of moving to locations where other Roma live. If the system were nondiscriminatory, it is likely that at least some Roma would choose to reside in the integrated communities where they had previously lived. The national government must investigate the practices of these local municipalities and their officials.

5.3. Segregation

The village of Nalepkovo provides an example of a policy of systematic segregation openly implemented by local authorities.

Approximately 2,600 non-Roma and 900 Roma live in Nalepkovo, a village situated in the Kosice region of Southeast Slovakia. The Romani community resides in four different locations in and around the village. A quarter of the Roma live in family houses

in the very center of the village. The rest reside in three segregated settlements: 300 live in 24 flats and some simple houses in Bytkova Hamor, a kilometer from the village; 48 live in Zahajnica, which is 1.5 kilometers from the village; and 300 live in 16 new houses, 4 shacks, and 3 small house trailers in Grun, the farthest settlement, which is two kilometers from the village.

A document entitled “Nalepkovo Territorial Planning,” describes how Nalepkovo authorities plan to relocate the Roma from the village to a Romani settlement and to concentrate housing for “citizens who are unable to adapt” — the common euphemism for Roma — in the Grun settlement. The document states that Grun “will be used to solve the Gypsies’ housing problem” in an arrangement where “the Gypsies will live in an independent settlement with their own self-government.”¹¹⁹

Additional documents, published in specialized magazines for public administration, demonstrate beyond any doubt the intent of the municipal officials to segregate the Roma and, in their own words, “clear the inside of the village” and enable the development of housing for young families. “The Gypsies will be relocated to localities where they were living initially or where they grew up,” one publication reports.¹²⁰

Indeed, the municipality built 16 new houses in Grun between 1995 and 1997. Part of the labor force involved in the construction was made up of Roma who were employed in a program aimed at creating employment opportunities for underprivileged people. Before the building program, the only dwellings in Grun were a few shanties and a couple of small housetrailer. The creation of this settlement represented the municipal authorities’ solution to the problem of Romani poverty; it was one that they believed would simultaneously bring “harmony in the coexistence of the village population.”¹²¹

The municipality included some cultural facilities and a grocery store at the Grun settlement. The houses were designed to be low cost and offer the Roma only minimal conveniences. Fifteen out of the 16 houses have a kitchen, a bedroom, a shower, and a hole in the bathroom floor as a toilet. These houses are inhabited by families that have between four and six members. The remaining house, which is for a family with seven or eight members, also has a kitchen, a smaller bedroom, an attic, a shower, and a hole in the bathroom floor as a toilet.

Nalepkovo is a clear case of the authorities in Slovakia endorsing policies of racial segregation. Not only did the national government fail to take any measure to stop the racial segregation going on in Nalepkovo; it actively supported it by allocating funds. A resolution adopted by Prime Minister Dzurinda’s government in May 2000 provides for the use of state money to construct 12 flats in Nalepkovo¹²² and foresees the construction of an additional six flats at a later time.¹²³

Recommendations

1. General Recommendations

- ▶ Adopt comprehensive antidiscrimination legislation following the principles established by the EU's Race Directive.⁴ Pass legislation prohibiting both direct and indirect discrimination in the public and private sectors, including, but not limited to, the provision of social protection, health care, and housing. Provide a legal basis for the investigation of allegations of discrimination by any appropriate means, including the use of statistical evidence. Pass legislation that shifts the burden of proof in civil cases onto the defendant where racial discrimination has been established *prima facie*. Adopt specific measures to prevent discrimination and to compensate persons who have suffered discrimination based upon racial or ethnic origin.
- ▶ Establish judicial and administrative procedures to implement antidiscrimination legislation and authorize associations, organizations, and other legal entities to engage in seeking legal remedies on behalf of the victims they represent. Impose effective, proportional and dissuasive sanctions for violations of antidiscrimination norms, including the payment of damages to the victims. Designate a body capable of enforcing antidiscrimination norms and providing independent assistance to victims of discrimination in pursuing their complaints.

- ▶ Require all the branches of Slovakia's government to undertake a detailed legal analysis of existing laws, decrees, and regulations in the areas of social protection, health, and housing, and eliminate all discriminatory provisions and provisions which have a disparate impact on the Romani community.
- ▶ Encourage ranking government officials, including ministers, members of the judiciary, and members of parliament to take a public stand against racial discrimination and communicate to all government employees and agents that direct and indirect discrimination will no longer be tolerated. Develop effective systems for disciplining and taking legal action against government employees who engage in or support discrimination.
- ▶ Create specialized bodies for monitoring human and civil rights at the national level. Take steps to ensure significant participation of Roma in the monitoring process. Encourage data-gathering activities and transparent decision-making processes. Initiate qualitative assessment studies, as well as debate over ethnically sensitive statistics, in order to bring attention to the existence and real extent of discriminatory practices.
- ▶ Further develop a national strategy for improving the lot of the Roma, focusing on human rights and antidiscrimination measures. Adopt integrated and culturally appropriate approaches in the areas of health and housing. Actively involve the local authorities in the elaboration of this strategy. Ensure that Roma participate in the further development of the strategy as partners on equal footing within a formal consultation process, and that Roma are fully involved in implementing, monitoring, and reporting on the strategy.

2. **Specific Recommendations for Improving Access to Social Protection**

- ▶ Further develop the social protection section of the strategy for the improvement of the situation of the country's Roma by focusing on equal access issues. Ensure active participation of Romani representatives and experts not only in the development of the social protection strategy, but also in its implementation, monitoring, and reporting stages. Create an adequate institutional framework for Romani participation at the ministerial and local levels.
- ▶ Require the relevant government ministries and agencies to review all laws and regulations on social assistance and eliminate all provisions that discriminate against Roma, with attention to improving the access Roma have to social benefits, social loans, and lump-sum payments. Amend existing laws to provide social benefits to all persons in need, regardless of the length of time they may have been unemployed. Further develop active employment policies in Romani communities.
- ▶ Address the problem of permanent residence status and its relevance for access to social benefits. Initiate research on the access Romani women and children have to social services and various types of benefits. Examine the degree of racial prejudice among social

workers and adopt adequate measures to reduce it. Promptly investigate allegations of racial discrimination in the distribution of social services and social benefits and investigate all allegations of discrimination against Roma who have been denied social benefits after returning to Slovakia from abroad. Eliminate all discriminatory norms and practices in the provision of social protection and impose effective, proportional, and dissuasive sanctions on the government agencies and officials involved in discrimination and ensure compensatory payments to their victims.

- ▶ Create effective administrative appeals mechanisms for persons who dispute the assessment by social workers of wealth, income, and need in the provision of social benefits. Review and improve the existing complaint mechanisms. Ensure effective remedies for persons whose rights to social benefits have been violated. Simplify accountability mechanisms, reduce court costs, and provide low-cost or free legal services to persons with economic need who wish to pursue such remedies.

- ▶ Ensure broad participation of Romani individuals and Romani NGOs in the delivery of social services. Further develop the legal and institutional framework for Romani community workers. Develop educational support programs for Roma who wish to pursue training and careers in social work.

- ▶ Develop campaigns and programs to educate political leaders, public officials, and social workers about racial discrimination in the provision of social benefits. Use the campaigns and programs to improve understanding of Romani poverty, as well as Romani culture, traditions, family structure, and mobility patterns. Devise a mass media strategy to educate journalists and the public on issues related to the social protection of vulnerable groups.

3. Specific Recommendations for Improving Access to Health Care

- ▶ Continue efforts to develop a strategy for the improvement of Romani health in Slovakia, with a particular focus on addressing discrimination, racial segregation, and sterilization issues. Ensure that the strategy considers regional differences, the diversity within the Romani community, and Romani mobility patterns in the sphere of health and access to health care. Include Romani representatives and experts not only in the development of the strategy, but also in its implementation, monitoring, and reporting stages, and create an adequate institutional framework for this participation.

- ▶ Take steps to prohibit racial segregation in health care facilities. Investigate and punish all cases of racial segregation in the provision of health care services, and impose effective and dissuasive sanctions on the persons, agencies, and institutions engaged in such discrimination.

- ▶ Initiate thorough investigations into sterilization cases and impose effective, proportional, and dissuasive sanctions on the health care personnel and agencies involved in

performing unauthorized, improper, illegal, or otherwise forced sterilization of Romani women.

- ▶ Require national and local governments and the relevant health care institutions and agencies to identify and eliminate obstacles preventing Romani patients from accessing emergency care.

- ▶ Generate and disseminate information that accurately assesses the health care needs of the Roma. Particular efforts need to be made in gathering data on noncontagious diseases, such as cardiovascular diseases and cancer, as well as nutrition, housing, access to potable water, sanitation, and environmental factors, in order to fully develop further health care plans. Develop a strategy to improve Romani access to health information, eventually introducing institutions such as Romani health mediators. Support Romani community broadcasting programs on health issues, and support training for Roma who want to study to be nurses and doctors.

- ▶ Ensure that health care institutions and officials create a regular system for monitoring and reporting on Romani health and the access Roma have to health care services. Educate politicians, legal and health care professionals, and NGOs on minority health issues and racial discrimination in the health care system.

- ▶ Ensure prompt and independent investigation of allegations of racial discrimination by medical and health care facilities, institutions, agencies, and personnel, and impose effective sanctions on the medical and health care facilities, institutions, agencies, and personnel found to have engaged in racial discrimination. Train doctors, nurses, and other health care professionals and workers not to subject Romani or any other patients to verbal abuse and degradation. Undertake disciplinary or legal action against those persons who violate laws or regulations prohibiting such behavior.

- ▶ Take steps to ensure that all patients, and especially victims of police brutality or racist attacks, can obtain medical certificates documenting their injuries in a timely manner and without interference and pressure from government, health or law enforcement officials.

- ▶ Initiate research into the vaccination coverage of Romani children, with immediate examinations into allegations of “vaccination on paper.” Identify the main barriers keeping Romani children from having equal access to immunization, and take adequate measures to bring the vaccination coverage of Romani children up to the same level enjoyed by Slovakia’s other children.

- ▶ Encourage national and local governments in general, and national and local health care agencies and institutions in particular, to take steps to establish or relocate health care facilities in Romani neighborhoods. Improve transportation from Romani settlements to existing medical facilities. Develop policies aimed at encouraging and rewarding health care professionals who provide health services to Romani communities.

4. **Specific Recommendations for Improving Access to Housing and Municipal Services**

- ▶ Continue efforts to develop an adequate housing strategy for the country's Roma. Incorporate the housing strategy for Roma into Slovakia's national housing strategy, and recognize and address the housing problems that ghettoization creates for Roma. One means of reducing policies that unfairly concentrate, evict, and segregate Romani tenants is to ensure active and equal participation of Romani representatives and experts not only in the development of the Romani housing strategy, but also in its implementing, monitoring, and reporting stages.
- ▶ Incorporate into existing antidiscrimination laws specific provisions related to housing, including clear sanctions for persons, agencies, and institutions found to be involved in discrimination as well as effective complaint mechanisms and effective legal remedies. Develop clear regulations on the provision of public housing, giving priority to indigents, large families, and economically disadvantaged families and persons.
- ▶ Review existing housing laws and amend them to eliminate provisions upon which discriminatory practices have been or could be based. Ensure a thorough investigation of all cases in which racial discrimination is alleged in the designation of permanent residence status. Impose effective, proportionate, and dissuasive sanctions on the institutions, agencies, and public officials who are found denying citizens of Slovakia permanent residence status in the places where they actually live. Undertake a systematic review of the legality of all local regulations governing the distribution of municipal flats and eliminate provisions and procedures upon which discrimination against Roma and other people has been, or could be, based. Investigate, in a timely and thorough manner, all allegations of discrimination in the distribution of municipal flats.
- ▶ Develop a strategy for the prevention and eradication of housing segregation in Slovakia, including use of active desegregation policies that involve and respect the identity and will of the communities concerned. Eradicate the practice of segregating, in substandard housing, Romani persons evicted from their homes and apartments for whatever reason. Reject all proposals and plans for housing projects that foster racial segregation.
- ▶ Encourage the relevant national ministries and agencies as well as local governments to take steps to ensure that Roma can effectively exercise their housing rights by having access to legal remedies, including: (a) an appeals process aimed at preventing, through the issuance of court-ordered injunctions, planned evictions or demolitions undertaken in an illegal manner; (b) procedures that can provide compensation or damages in cases where illegal eviction has been shown; (c) complaint procedures for disputes in which it has been alleged that illegal acts have been committed or supported by public or private landlords concerning the amount of rent to be paid for a rental property, maintenance of the rental property, and racial or other forms of discrimination related to use of a rental

property; (d) complaint and appeals procedures for disputes in which discrimination in the allocation and availability of housing has been alleged; and (e) effective complaint procedures in disputes where it has been alleged that public or private landlords have failed or are failing in their duty to maintain a rental property or properties in a reasonably healthy and sound condition. Examine the possibility of allowing class action suits to be brought into situations where it has been alleged that racial segregation or other forms of discrimination have increased levels of homelessness of a particular group or class of people.

- ▶ Ensure that appropriate training is available on housing rights and housing discrimination issues for lawyers, judges, prosecutors, NGO personnel, officials involved in public housing, and Romani leaders and ensure indigent persons access to administrative or judicial remedies by providing low-cost or free legal assistance and prompt procedures.
- ▶ Create monitoring systems on a national level to identify and document instances of housing discrimination. Ensure transparent and regular reporting on cases where housing discrimination has been alleged or shown. Initiate research on the level of anti-Romani prejudice within national and local housing departments, institutions, agencies, and other governmental organizations.
- ▶ Make legalization of Romani settlements a strategic priority, and develop a systematic and comprehensive legalization plan combining legislative measures with practical procedures. Create a system of financial and technical support and incentives for municipalities that undertake such legalization projects. Consider the possibility of using state lands or legally expropriated land to develop housing.
- ▶ Require the country's electrical, transportation, water, and sanitation authorities, as well as local governments, to take steps to provide predominantly Romani neighborhoods and settlements with equal access to electricity, public transportation networks, garbage collection, and clean water, and to develop mechanisms to subsidize the cost of these services for the truly poor.
- ▶ Encourage national and local governments, and housing authorities in particular to mobilize public and private local, national, and international resources to improve housing for Roma and any other groups who have suffered from inadequate housing due to discrimination and segregation based upon racial or other criteria. Involve Roma in all relevant projects prepared with the assistance of the international financial community. Educate local officials about how to allocate, create, and seek funding for housing or infrastructure improvement projects in disadvantaged communities.
- ▶ Encourage Slovakia's national and local governments and housing authorities to support studies of the Romani housing situation. Utilize the expertise of the country's housing specialists, architects, civil engineers, and other professionals in seeking solutions to Romani housing problems. Organize educational and training activities and competitions that will prompt researchers and students from the country's faculties of architecture and engineering to work with Romani representatives in finding solutions to the Romani community's housing problems.

- ▶ Encourage Slovakia's national and local governments and housing authorities to solve housing problems within the framework of comprehensive community development programs aimed at, among other things, combating unemployment and the segregation of schools. Utilize the untapped potential of the Romani labor force in construction and other activities during the implementation of such a housing strategy. Prepare the Romani and non-Romani population for the changes that will occur during construction projects. Provide assistance in the form of free or low-priced building materials to encourage interim housing improvements.
- ▶ Encourage Slovakia's national and local governments and housing authorities to take steps to educate political leaders and public officials about Romani housing problems and develop mass media campaigns to build public support for the implementation of housing strategies aimed at solving these problems. Such a campaign could include: training for journalists on housing rights, housing discrimination, and Romani housing issues; field trips; support for documentary films; and the creation of awards for reporting on housing issues.

Endnotes

Legal Standards

1. Committee on Civil and Political Rights (CCPR), *General Comment* 18, “Non-discrimination,” (10 November 1989), par. 13.
2. Council of the European Union Directive 2000/43/EC of June 2000, art. 2.1.2.a.
3. *Ibid.*, art. 2.1.2.b.
4. See, for example, CCPR, *General Comment* 18, “Non-discrimination,” par. 6 and 7.
5. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), art. 1.1.
6. See, for example, CCPR, *General Comment* 18, “Non-discrimination.” See also the Committee on Economic, Social and Cultural Rights (CESCR), *General Comment* 4, “The right to adequate housing,” E/1992/23, 13 December 1991, note 3.
7. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), art. 2.1.
8. International Covenant on Civil and Political Rights (ICCPR), art. 2.1.
9. International Covenant on Economic, Social and Cultural Rights (ICESCR), art. 2.2.
10. Committee on the Elimination of All Forms of Racial Discrimination (CERD), *General Comment* 14, on definition of discrimination, A/48/18, 1993, par. 2.
11. ICERD, art. 5.d.
12. ICERD, art. 5.e.
13. Committee on Economic, Social and Cultural Rights (CESCR), *General Comment* 12, “The right to adequate food,” E/C.12/1999/5, par. 18.
14. CESCR, *General Comment* 14, “The right to the highest attainable standard of health,” E/C.12/2000/4, 4 July 2000, par. 12(2) (i).
15. CESCR, *General Comment* 4, “The right to adequate housing,” E/1992/23, 13 December 1991, par. 17.
16. CESCR, *General Comment* 14, “The right to the highest attainable standard of health,” E/C.12/2000/4, 4 July 2000, par. 43.

17. *Ibid.*, 47.
18. "Violations of the Covenant occur when a State fails to ensure the satisfaction of, at the very least, the minimum essential level required to be free from hunger. . . . Should a State party argue that resource constraints make it impossible to provide access to food for those who are unable by themselves to secure such access, the State has to demonstrate that every effort has been made to use all the resources at its disposal in an effort to satisfy, as a matter of priority, those minimum obligations. . . . Furthermore, any discrimination in access to food, as well as to means and entitlements for its procurement, on the grounds of race, color, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status with the purpose or effect of nullifying or impairing the equal enjoyment or exercise of economic, social and cultural rights constitutes a violation of the Covenant." CESCR, *General Comment* 12, "The right to adequate food," E/C. 12/1999/5, par. 17 and 18.
19. "The right to adequate housing applies to everyone. While the reference to 'himself and his family' reflects assumptions as to gender roles and economic activity patterns commonly accepted in 1966 when the Covenant was adopted, the phrase cannot be read today as implying any limitations upon the applicability of the right to individuals or to female-headed households or other such groups. Thus, the concept of 'family' must be understood in a wide sense. Further, individuals, as well as families, are entitled to adequate housing regardless of age, economic status, group or other affiliation or status and other such factors. In particular, enjoyment of this right must, in accordance with art. 2 (2) of the Covenant, not be subject to any form of discrimination." CESCR, *General Comment* 4, "The right to adequate housing," E/1992/23, 13 December 1991, par. 6.
20. ICERD, art. 1(2).
21. ICCPR, art. 2(1).
22. CCPR, *General Comment* 15, "The position of aliens under the Covenant," 11 April 1986, par. 2.
23. CCPR, *General Comment* 18, "Non-discrimination," 10 November 1989, par. 13.
24. ICERD, art. 1(4).
25. CCPR, *General Comment* 18, "Non-discrimination," 10 November 1989, par. 10.
26. CERD, *General Comment* 20, "Non-discriminatory application of rights and freedoms (Article 5)," A/51/18, 15 March 1996, par. 1.
27. Slovakia ratified the Convention on the Rights of the Child (CRC) on 28 May 1993, with entry to force retroactive to 1 January 1993.
28. Slovakia ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on 28 May 1993, with entry to force retroactive to 1 January 1993. *Optional Protocol* signed on 5 June 2000 and ratified on 17 November 2000.
29. ECHR, art. 1.
30. *Abdulaziz, Cabales and Balkandali v. the U.K.*, Judgment of 28 May 1985, Series A, No. 94, par. 72, as cited in explanatory report to Protocol 12, par. 18.
31. Protocol 12 to the ECHR, art. 1.
32. Explanatory report to Protocol 12 to the ECHR, par. 22.
33. *Ibid.* par. 28.
34. ECHR ratified on 18 March 1992, with entry to force on 1 January 1993.
35. ECHR Protocols 1-8 ratified on 18 March 1992, Protocol 9 ratified on 7 May 1992, Protocol 10 ratified on 26 June 1992, Protocol 11 ratified on 28 September 1994.
36. ECHR, art. 13.
37. *Ibid.*, art. 8.
38. ECHR Protocol 12 will enter into force upon ten ratifications. As of 5 August 2001, twenty-seven states have signed it, but only Georgia has ratified. Slovakia signed in October 2000.
39. Council Directive 2000/43/EC of 29 June 2000, art. 2.1.
40. *Ibid.*, art. 2.1.2.a.
41. *Ibid.*, art. 2.1.2.b.
42. *Ibid.*, art. 3.1.a.
43. *Ibid.*, art. 3.1.e.
44. *Ibid.*, art. 3.1.h.
45. *Ibid.*, art. 14.
46. *Ibid.*, art. 2.4.
47. *Ibid.*, art. 8.1.

48. *Ibid.*, art. 8.2.
49. *Ibid.*, art. 13.2.
50. *Ibid.*, art. 15.
51. *Ibid.*, art. 17.
52. European Commission, *2000 Regular Report from the European Commission on Slovakia's Progress Toward Accession* (8 November 2000): 54.
53. Slovakia signed the Framework Convention for the Protection of National Minorities on 1 February 1995, and ratified it on 14 September 1995. It entered into force on Slovak territory on 1 February 1998.
54. Framework Convention for the Protection of National Minorities, art. 4.
55. *Ibid.*, art. 6.
56. *Ibid.*, art. 17.
57. *Ibid.*, art. 4.
58. Slovakia submitted its first report on 4 May 1999. The Committee adopted its first advisory opinion on 22 September 2000.
59. Framework Convention for the Protection of National Minorities, articles 24 and 25.
60. Organization for Security and Cooperation in Europe (OSCE), *Istanbul Summit*, par. 31.
61. OSCE, *Charter for European Security*, par. 20.
62. "Persons belonging to national minorities have the right to exercise fully and effectively their human rights and fundamental freedoms without any discrimination and in full equality before the law." 1990 Copenhagen Document, par. 31. Participating States "clearly and unequivocally condemn . . . racial and ethnic hatred . . . and discrimination against anyone," and recognized "the particular problems of Roma." 1990 Copenhagen Document, par. 40. See also OSCE, *Report on the Situation of Roma and Sinti in the OSCE Area* (The Hague, 10 March 2000): 7-13.
63. At the 1992 Helsinki Meeting, participating states said they would "consider taking appropriate measures . . . to ensure to everyone on their territory protection against discrimination on racial, ethnic and religious grounds, as well as to protect individuals . . . against acts of violence . . . Moreover, they will make full use of their domestic legal processes, including enforcement of existing laws in this regard." 1992 Helsinki Document, par. 33. They added that they "[r]eaffirm[ed], in this context, the need to develop appropriate programmes addressing problems of their respective nationals belonging to Roma and other groups traditionally identified as Gypsies . . ." 1992 Helsinki Document, par. 35.
64. *Report of the Geneva Meeting of Experts on National Minorities* (1991).
65. *Explanatory Report to the Revised European Social Charter*, par. 136.
66. "The Parties undertake . . . to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations." Revised European Social Charter, art. 2. "The Parties undertake, in consultation with employers' and workers' organizations . . . to issue safety and health regulations; to provide for the enforcement of such regulations by measures of supervision." Revised European Social Charter, art.3.
67. "The Parties undertake . . . to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women to take leave before and after childbirth up to a total of at least fourteen weeks." Revised European Social Charter, art. 8.
68. "The Parties undertake . . . to establish or maintain a system of social security [and] to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security." Revised European Social Charter, art. 12.
69. *Ibid.*, art. 14.
70. "The Parties undertake to provide . . . such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means." Revised European Social Charter, art. 16.
71. *Ibid.*, art. 17.
72. "Parties undertake . . . to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct." Revised European Social Charter, art. 26.
73. "Parties undertake . . . to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and

social and medical assistance; to review these measures with a view to their adaptation if necessary.” Revised European Social Charter, art. 30.

74. “With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organizations, to take appropriate measures designed inter alia: to remove as far as possible the causes of ill-health; to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health; to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.” Revised European Social Charter, art. 11.

75. “The right to social and medical assistance: With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake: to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition; to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights; to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want; to apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11 December 1953.” Revised European Social Charter, art. 13.

76. *Ibid.*, art. 31.

77. Slovakia ratified the European Social Charter on 22 June 1998. The Charter entered into force on Slovak territory on 21 July 1998.

78. European Social Charter, art. 11, par. 1-3: The correlative obligations of the state bound to ensure the exercise of the right to protection of health include the obligation to remove as far as possible the causes of ill-health; the obligation to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health; the obligation to prevent as far as possible epidemic, endemic and other diseases.

79. European Social Charter, art. 13, par. 1-3 impose on the Slovak Republic the obligations (1) to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition; (2) to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights; (3) to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want.

80. European Social Charter, art. 14, par. 1 and 2 lay down state’s obligation to (1) promote or provide services which, by using methods of social work, would contribute to the welfare and development of both individuals and groups in the community, and to their adjustment to the social environment; (2) to encourage the participation of individuals and voluntary or other organizations in the establishment and maintenance of such services.

81. Signature date: 18 November 1999.

82. Signature date: 18 November 1999.

83. In 2001, Slovakia’s Parliament adopted numerous amendments to the constitutional text, most of which will enter into force by 1 July 2001.

84. Slovak Constitution, art. 1, par. 2: “The Slovak Republic is recognizing and complies with general rules of international law, international agreements by which it is bound and its other international commitments.”

85. Slovak Constitution, art. 154c, par. 1: “International treaties on human rights and basic freedoms that were ratified by the Slovak Republic and promulgated in a manner determined by the law before the entry into the force of this constitutional law are a part of its legal order and have priority before the law if they provide a greater extent of constitutional rights and freedoms.”

86. The relevant article in the Constitution before the amendments was art. 11, which provided “International treaties on human rights and basic liberties that were ratified by the Slovak Republic and promulgated in a manner determined by law take precedence over its own laws, provided that they secure a greater extent of constitutional rights and liberties.” Art. 11 has been abrogated. The new provision which establishes the precedence of the international human rights law over the Slovak law is art. 7, par. 5 which reads: “International treaties on human rights and basic liberties, international treaties for application of that there is not the act of law required, and international treaties that directly establish rights and obligations of physical persons or legal entities that were ratified and promulgated in a manner determined by law take precedence over its own laws.”

87. Slovak Constitution, art. 12, par. 2, reads: "Basic rights and liberties on the territory of the Slovak Republic are guaranteed to everyone regardless of sex, race, color of skin, language, creed and religion, political or other beliefs, national or social origin, affiliation to a nation or ethnic group, property, descent, or another status."
88. Slovak Constitution, art. 12, par. 2, final: "No one must be harmed, preferred, or discriminated against on these grounds." According to the author's best knowledge, there is no legal debate and no jurisprudence related to the prohibition of affirmative action under this particular provision.
89. Slovak Constitution, art. 38, par. 1.
90. Act No. 40/1964 Coll. Civil Code as amended, art. 2. See also Act No. 99/1963 Coll. Code of Civil Procedure as amended, art. 18.
91. Act No. 40/1964 Coll. Civil Code, art. 4, and Act No. 99/1963 Coll. Code of Civil Procedure as amended, art. 3.
92. Act No. 40/1964 Coll. Civil Code as amended, art. 13, par. 1.
93. Act No. 634/1992 Coll. on Consumer Protection as amended, art. 6, par. 3a.
94. *Ibid.*, art. 6, par. 1.
95. The Slovak Trade Inspection (STI) has responsibility for monitoring implementation of these provisions. Its annual report states that the organization controlled the activity of 27,315 units during 2000, but the report did not disclose whether any of these controls were related to discrimination. See Slovak Trade Inspection, *Evaluation of Control Activities of the Slovak Trade Inspection in 2000*, 16 March 2001, <http://www.soi.sk/kcinnost/zoznam/vkrok2000.htm>.
96. Act No. 65/1965 Coll. Labor Code as amended, art. III: "Natural persons have the right to work and to free choice of employment, to satisfactory working conditions and to protection against unemployment. They are entitled to these rights without any restriction or discrimination on the grounds of race, color, language, sex, social origin, age, religion, political or other opinion, political affiliation, trade union activities, belonging to a national minority or ethnic group, or any other status."
97. *Ibid.*, art. VII.
98. Act No. 65/1965 Coll. Labor Code as amended, art. IX, and art. 148, par. 1.
99. *Ibid.*, art. VIII.
100. Employment Act No. 387/1996 Coll. as amended, art. 112 par. 1 reads: "Employers can recruit workers of required number and structure either by their own selection or using employment services in the entire territory of the Slovak Republic. Employers are prohibited from publishing job advertisements that impose any limitation or discrimination on the grounds of race, color, language, sex, social origin, age, religion political or other opinion, trade union activities, belonging to a national minority or ethnic group, or other status."
101. These bodies are the Supervision Council and the executive bodies of the National Employment Office. See: Employment Act No. 387/1996 Coll. as amended, art. 19.
102. *Ibid.*, art. 122, par. 3.a. and 3.b.
103. *Ibid.*, art. 12.
104. Articles 270(a) and 270(b) of the Labor Code permit the state to punish violators. See also: European Commission against Racism and Intolerance (ECRI), "*Second Report on Slovakia*," CRI 2000 (Strasbourg, 27 June 2000): par. 13.
105. The Government of the Slovak Republic, *Negotiation Position of the Slovak Republic*, Chapter 13, "Social Policy and Employment" (Bratislava, 13 November 2000).
106. Conference on Accession to the European Union, Slovakia, *European Union Common Position*, Chapter 13, "Social Policy and Employment," CONF-SK 2/01 (Brussels, 14 February 2001).
107. European Commission, *2000 Regular Report from the European Commission on Slovakia's Progress Toward Accession* (8 November 2000): 54, states "Legislation transposing the EC Directive based on Art. 13 of the Treaty relative to discrimination on the grounds of race or ethnic origin will have to be introduced and implemented."
108. Conference on Accession to the European Union, Slovakia, *European Union Common Position*, Chapter 13, "Social Policy and Employment," CONF-SK 2/01 (Brussels, 14 February 2001): 4.
109. *Ibid.*
110. The government is currently working on two draft proposals, one on equal treatment, the other on the status, tasks, and objectives of the Center for Equal Treatment . Source: Jana Kviecinska, Department of Human Rights and National Minorities of the Slovak government, personal communication with the author, 6 June 2001.
111. Communication with the Slovak government's Human Rights Office, July 2001, on file with author.

Barriers to Social Protection

1. "Third periodic reports of States parties due in 1998, Addendum, Slovakia," CERD/C/328/Add.1, 14 December 1999, par. 10.
2. For example, the London-based Minority Rights Group estimates that there are between 480,000 and 520,000 Roma in Slovakia.
3. According to statistics published by the Ministry of Labor, Social Affairs and Family, there are 591 Romani settlements with 13,182 housing units inhabited by 124,031 people. Ministry of Labor, Social Affairs and Family, *Social Policy of the Slovak Republic in 1998* (Bratislava, 1999): 91.
4. Persons between 30 and 40 years of age represent 17 percent of the Romani population as compared with 22 percent for the majority; persons between 41 and 59 make up 6.2 percent of the Romani population as compared to 14.5 percent for the majority; and persons over 60 represent 3.6 percent of the Romani population as compared with 14.8 percent for the majority. Vasecka, M., "The Roma" in *Slovakia 2000 — A Global Report on the State of Society* (Bratislava: Institute for Public Affairs, 2001): 187.
5. International Organization for Migration (IOM) *Social and Economic Situation of Potential Asylum Seekers from the Slovak Republic*, (Bratislava, 2000).
6. Wolekova, H., Radicova, I., "Social Policy" in *Slovakia 2000*, 365.
7. *Ibid.*, 369.
8. The communists' efforts to absorb Roma into the mainstream workforce met with partial success. In Czechoslovakia, about 66 percent of Romani males and 41 percent of Romani females of working age had jobs in 1970; employment rose to 75 percent for both men and women by 1981. Kalvoda, J., "The Gypsies of Czechoslovakia," in Crowe and Kolsti, eds. *The Gypsies of Eastern Europe* (Armonk, New York; M.E. Sharpe, 1991): 106. However, Czechoslovakia's socialist regime effectively consigned the Roma to the most menial, undesirable positions in the economy's secondary labor force. Sirovátka, T., *Labor Market exclusions of Handicapped Groups in Full Employment Society with Emphasis on Gypsy Community: the Case of the Czech Republic*, paper presented at the ESA Third European Conference, "20th Century Europe: Inclusions/Exclusions," 27-30 August 1997.
9. ECRI, *Second Report*, par. 33.
10. Out of a total of 37,547 men and 37,623 women living in settlements in 1991, 8,664 persons had employment. Ministry of Labor, Social Affairs and Family, "Roma Settlements" in *Social Policy of the Slovak Republic in 1998* (Bratislava 1999): 91.
11. Vasecka, M., *The Roma in Slovakia — Report on the Situation in 1998-1999* (Bratislava: Institute for Public Affairs, July 1999): 19.
12. Ministry of Labor, Family and Social Affairs, 1999, par. 1, on the number of unemployed Roma and their share on the overall number of registered unemployed according to education structure by 30 June 1999, as published in Vasecka, M., "Roma" in *Slovakia 2000*, 189.
13. United Nations Development Program (UNDP), *National Human Development Report, Slovak Republic 2000* (Bratislava: UNDP, Center for Economic Development, 2000): 101.
14. Jurova, A., Koptova, A., "Vulnerable Populations: Children and Young People of the Roma Ethnic Group" in *Children in Slovakia 1999* (Slovak National Committee for UNICEF, October 1999): 32.
15. World Bank, Memorandum of the President of the International Bank for Reconstruction and Development and the International Finance Corporation to the Executive Directors on a Country Assistance Strategy for the Slovak Republic (Washington D.C., 8 January 2001): 8.
16. *Ibid.*
17. *Ibid.*, 24.
18. Social Assistance Act, No. 195/1998, art. 7, par. 1. [Henceforth "Social Assistance Act" unless otherwise noted.] See also UNDP, "Faces of Poverty in Slovakia" in *National Human Development Report, Slovak Republic 2000*, 79.
19. Social Assistance Act, art. 10, par. 1.
20. *Ibid.*, art. 7, par. 5. The law emphasizes an individual's efforts to secure income.
21. *Ibid.*, art. 8(a).
22. *Ibid.*, art. 8(b).
23. *Ibid.*, art. 8(c).
24. *Ibid.*, art. 8(d)(1).
25. *Ibid.*, art. 8(d)(2).
26. *Ibid.*, art. 8(d)(3).

27. Ibid., art. 8(e).
28. Ibid., art. 8(f).
29. Ibid., art. 7, par. 6(a).
30. Ibid., art. 7, par. 6(b).
31. Ibid., art. 7, par. 6(c).
32. Ibid., art. 7, par. 6(e).
33. Ibid., art. 7, par. 6(f).
34. Ibid., art. 7, par. 6(g).
35. Ibid., art. 7, par. 6(h). Self-employed persons and those persons who work with self-employed persons must pay the contribution to health care.
36. Ibid., art. 7, par. 6(j). Such a person is deemed to be suffering material hardship for subjective reasons if the neglect has resulted in a measure, or a preliminary measure, imposed by a competent body which limits parental rights by entrusting the child to foster or institutional care in accordance with relevant family law provisions.
37. Ibid., art. 7, par. 6(d).
38. Ibid., art. 7, par. 6(d).
39. Table based upon statistics from the Ministry of Labor, Social Affairs and Family for 2000 and 2001.
40. A percentage growth of 67 percent was obtained by comparing 27.9 percent in 1999 and 46.6 percent in 2000.
41. Cervenak, J., *Report on the Reasons of the Migration of Slovak Roma* (Bratislava, 2000): 50.
42. Klara Orgovanova, director of Inforoma Foundation, as cited by the Danish Immigration Service, *Report on Fact-Finding Mission to the Czech Republic and Slovakia — Situation of the Roma Minority - 1 March to 11 March 1999* (Copenhagen, 1999): 6.
43. Krajcovicova, L., "Community Studies in Nalepkovo, Slovakia," in *Poverty, Ethnicity and Gender in Transnational Societies* (The International Project, May 2000): 43.
44. League of Human Rights Advocates, *Report of Fact-finding Mission on the Human Rights Situation of the Roma Community in Kosice* (24 February 2000, unpublished): 2.
45. Radicova, I., *Social and Living Conditions in a Slovak Roma Settlement* (working draft for 2001, forthcoming): 17.
46. League of Human Rights Advocates, *Report of Fact-finding Mission to the District of Trebisov* (29 February 2000, unpublished): 5-6.
47. Godwin, P., "Gypsies – The Outsiders," *National Geographic* (April 2001): 85.
48. Quoted in UK Refugee Council, *Unwanted Journey, Why Central European Roma Are Fleeing to the UK* (March 1999): 35.
49. Ibid., 35.
50. ECRI, *Second Report*, par. 33.
51. ECRI, *Legal Measures to Combat Racism and Intolerance in the Member States of the Council of Europe* (1998), Explanatory Note, "Slovakia, Civil and Administrative Law," 433, par. 1.2.
52. "A disproportionate number of unemployed persons are Roma, who face exceptional difficulties in finding and holding jobs, partly as a result of discrimination." U.S. Department of State–Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices for 2000, Slovakia* (February 2001).
53. RFE/RL Newsline, "Slovak Labor Office also Marking Roma with letter 'R'," 5 November 1999, <http://www.rferl.org/newsline/1999/11/3-CEE/cee-051199.html>
54. The director of the National Labor Bureau ordered an end to this practice after complaints from human rights organizations and from the Slovak Department for Human Rights and Minorities. See: U.S. Department of State–Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices for 1999, Slovak Republic* (February 2000, section 5).
55. Interview with Lubomir Vasko, Deputy Mayor, Sabinov, 19 April 2000. Sociologists have also noted the practice of marking non-Romani applications with a "B." See Vasecka, M., "The Roma," in *Slovakia 2000*, 180.
56. Interview with Iveta Radicova, Director of the Center for Social Policy Analyses, (SPACE), 7 March 2001, Bratislava.
57. Krajcovicova, 52.

58. League of Human Rights Advocates, *Report of Fact-finding Mission to the District of Spisska Nova Ves and Kezmarok of Eastern Slovakia* (August 2000, unpublished): 4.

59. See the Legal Standards section of this report.

60. Alexander Patkolo, the then Chairman of Romani party RIS (Roma Intelligentsia for Coexistence), as cited by Danish Immigration Service, *Report on Fact-finding mission to the Czech Republic and Slovakia - Situation of the Roma minority - 1 March to 11 March 1999*, 8.

61. Slovak Constitution, art. 39(2): "Everyone who is in material need is entitled to the assistance necessary to ensure basic living conditions."

62. The Social Assistance Act, No. 195/1998, was adopted on 19 March 1998 and entered into force on 1 July 1998. As of March 2001, the Social Assistance Act had been amended by Act 389/1998, Act 155/1999 and Act 450/2000. The Ministry of Labor, Social Affairs and Family has issued a variety of decrees under the Act, such as Decree 198/1998 on the execution of some provisions of the Social Assistance Act and Decree 407/1998 on housing subsidies.

63. Social Assistance Act, art. 2, par. 2.

64. *Ibid.*, art. 14, par. 1 and 2. Social services are specialised activities aimed at solving the problems of material or social hardship.

65. Ministry of Labor, Social Affairs and Family, *Report on the Welfare Situation of Slovak Citizens in 1999 and its Development Over the Past Ten Years*" (Bratislava 2000).

66. In 2000, beneficiaries together with their dependants numbered 612,953 people. Ministry of Labor, Social Affairs and Family, *The List of Districts According to the Number of Citizens Receiving Social Benefits as of December 2000*" (Bratislava, March 2001).

67. Social Assistance Act, art. 48, par. 1.

68. *Ibid.*, art. 48, par. 10.

69. *Ibid.*, art. 48, par. 11.

70. *Ibid.*, art. 48, par. 4 and 5. There are a few persons who work but who are still deemed to be suffering material hardship for "objective reasons." These persons receive 120 percent of the minimum subsistence level. The 50 percent level is considered a real "subsistence minimum" and is aimed at keeping the beneficiaries from dying of hunger.

71. *Ibid.*, art. 48, par. 3.

72. Act No. 450/2000 Coll. from 30 November 2000, amending and supplementing the Social Assistance Act, No. 195/1998 Coll., art. 44.

73. *Ibid.*

74. CRC, art. 26. The Convention entered into force in Slovakia as of 6 February 1991.

75. CRC, art. 26.

76. Social Assistance Act, art. 48, par. 13.

77. *Ibid.*, art. 48, par. 14.

78. *Ibid.*, art. 71, par. 6.

79. *Ibid.*, art. 71, par. 7.

80. *Ibid.*, art. 48, par. 12.

81. *Ibid.*, art. 39.

82. *Ibid.*, art. 39, par. 2.

83. *Ibid.*

84. *Ibid.*, art. 39, par. 6.

85. *Ibid.*, art. 39, par. 1.

86. *Ibid.*, art. 71, par. 8(b)1.

87. *Ibid.*, art. 39, par. 1.

88. As cited in UNDP, *National Human Development Report, Slovak Republic 2000*, 101.

89. In the worst case, if no employers hired any Roma, an additional 59,000 who were unemployed for more than 12 months in the summer of 1999 would have also passed the twenty-four month limit in the summer of 2000, becoming also "subjectively poor." Therefore, by the summer of 2000, out of approximately 131,000 unemployed Roma, 120,000 or approximately 95 percent would have been unemployed for more than 24 months.

90. Roma account for about 10 percent of the Slovak population.

91. Calculation based on the data presented in the table. The total number of unemployed is 532,275. The number of unemployed Roma is 132,177, or approximately 24 percent of the total unemployed. The total number of long-term unemployed, meaning more than 24 months without a job, is 142,861. The number of long-term unemployed Roma is 63,321, or approximately 44 percent.
92. Interview with M. Ionasova, social worker, Social Assistance Department, Banska Bystrica, 18 April 2000.
93. Personal communication with Alexander Musinka, Minoritas Association, Presov, Slovakia, 19 April 2000.
94. Raslova, A., *Discrimination against Roma and Retroactive Application of the Social Assistance Act* (Slovak Helsinki Committee, forthcoming).
95. Good Romani Fairy Kesaj Foundation, "Lack of Skills or Intention?" in *White Book 2000*, 77.
96. "The League of Human Rights Advocates has condemned these measures, which are directed against the poorest segment of the society ... Economic hardship continues to bite harder particularly the economically and socially disadvantaged part of the population – the Roma. Since most of the Romani families are large, children who constitute the majority bear the burden of this obnoxious government policy." League of Human Rights Advocates, *Report of Fact-finding Mission on Human and Minority Rights in the District of Rakusy* (22 November 2000, unpublished): 2.
97. Radio Prague, "Roma Minority Unrest in Slovakia," 17 August 1999.
98. Under an amendment to Employment Act (Act No. 245/2000 Coll.), which took effect as of 1 August 2000, municipalities are able to launch public-works programs designed for the long-term unemployed and funded from the state budget through subsidies appropriated via the National Employment Office.
99. Interview with Edit Bauer.
100. Radicova, I., *Social and Living Conditions in a Slovak Roma Settlement*, 18.
101. Imrich Balaz, community leader in the Rakusy, Kezmarok, settlement: "The district authorities have allocated only 46 jobs for 1600 Roma, this covers only 3 percent of our population." Quoted by the League of Human Rights Advocates, *Report of Fact-finding Mission on Human and Minority Rights in the District of Rakusy* (22 November 2000, unpublished): 3.
102. *Ibid.*, 2.
103. Radicova, I., *Social and Living Conditions in a Slovak Roma Settlement*, 18.
104. *Ibid.*, 48.
105. IOM, *Social and Economic Situation of Potential Asylum Seekers from the Slovak Republic*, 109.
106. Inforoma is one of the biggest Romani nongovernmental organizations in Slovakia.
107. Good Romani Fairy Kesaj Foundation, *White Book*, 77.
108. *Ibid.*, 77.
109. *Ibid.*, 78.
110. Social Assistance Act, art. 9, par. 1.
111. *Ibid.*, art. 9, par. 2.
112. *Ibid.*, art. 9, par. 3.
113. *Ibid.*, art. 9, par. 3(a).
114. *Ibid.*, art. 9, par. 3(b).
115. *Ibid.*, art. 9, par. 3(c).
116. *Ibid.*, art. 9, par. 3(d).
117. *Ibid.*, art. 9, par. 3(a, e).
118. *Ibid.*, art. 9, par. 3(b, e).
119. *Ibid.*, art. 9, par. 3(f).
120. For administrative purposes in Slovakia, an identity card, and not a passport, proves citizenship. A valid passport is obligatory only for traveling abroad.
121. The working poor who have an income under the life minimum and are eligible for social benefits do not register with unemployment offices.
122. ECRI, *Second Report*, par. 37.
123. Schlager, E., "The Plight of the Roma in Eastern Europe: Free at Last?" *Eastern European Studies, Meeting Report 226* (24 January 2001).
124. The Tolerance Foundation documented 663 cases of judicial expulsion and 1,039 cases of administrative expulsion of Roma from the Czech Republic to Slovakia in the period from January 1993 to

- June 1996. See Tolerance Foundation, *From Exclusion to Expulsion: the Czech Republic's "New Foreigners"* (Prague, November 1996): 9-10.
125. CERD, Opinion on Communication 13/1998, CERD/C/57/D/13/1998, 25 August 2000.
 126. Good Romani Fairy Kesaj Foundation, "The Law is in the Hands of the Mayor" in *White Book 1999*, (Kosice, 1999): 28.
 127. Case reported by Andrea Raslova, Slovak Helsinki Committee, 17 April 2000.
 128. Raslova, A., *Discrimination against Roma and Retroactive Application of the Social Assistance Act*, (Slovak Helsinki Committee, forthcoming).
 129. Roman Chonka, project co-author and social and legal aid project worker in Presov district, quoted by Good Romani Fairy Kesaj Foundation, "Lack of Skills or Intention?" in *White Book 2000*, 77.
 130. Social Assistance Act, art. 39.
 131. Krajcovicova, 53.
 132. See also the Nalepkovo Case in the Housing section of this report.
 133. The Roma who had applied for political asylum in Belgium were marked prior to their deportation with a concentration camp-like number on their underarm. The ink vanished only after months of washing. Roma News, "Belgium Makes Inquiries About Tattooed Roma," 1 March 2001, Brussels, Belgium.
 134. Surveys have shown that about 49 percent of the Slovak population believes that Roma are not discriminated against in Slovakia, and a further 27 percent of the population maintain that Roma are given preferential treatment. Butorova, Z., Gyarfasova, O., Velsic, M., "Public Opinion" in *Slovakia 2000*, 221.
 135. See the subsection of this report with assertions by government officials that Roma are unworthy beneficiaries of a generous welfare system.
 136. Interview with Daniela Stabova, Head of Office, IOM, Bratislava, 1 March 2001.
 137. Interview with Pavol Makys, Program Assistant of the IOM, Bratislava, 1 March 2001.
 138. Ms. Tokarova, statement made during an NGO meeting, Kezmarok, 2 March 2001, meeting report on file.
 139. Michal Lacko, statement made during an NGO meeting in Kezmarok, 2 March 2001, meeting report on file.
 140. Email communication between the author and Edit Bauer, State Secretary, Ministry of Labor, Social Affairs and Family, 14 March 2001.
 141. Interview with Pavol Makys.
 142. See the case of Jan Gazi, from Pavlovce nad Uhom, as described by participants in NGO meeting, Kezmarok, 2 March 2001, meeting report on file.
 143. Interview with Ionasova, Banska Bystrica, 6 March 2000.
 144. Interview with Edit Bauer.
 145. "No special instructions on payment of social benefits for Roma returning from abroad have been issued by the Ministry of Labor, Social Affairs and Family. Romani returnees are obliged to list their financial situation as anyone else based on statement." Edit Bauer, State Secretary, Ministry of Labor, Social Affairs and Family, 14 March, 2001, in personal email communication with the author.
 146. Interview with Mr. Lacko, Jarovnice, Slovakia, 19 April 2000.
 147. Alexander Musinka, Minoritas Association, Presov, Slovakia, 19 April 2000.
 148. Interview with Martina Hornofova, Czech student working in Letanovce settlement, 21 April 2000.
 149. "Social field work is limited to passive examination of applicants' eligibility to receive social security benefits on the basis of their level of poverty." Wolekova and Radicova, "Social Policy" in *Slovakia 2000*, 382.
 150. "Questionnaires for the Monitoring of the Situation of Roma Settlements 2000, Svezov, Rokytov, Richvald, Gerlachov, Snakov, Fricka, Nizny Tvarozec - 2000," Inforoma Foundation, Bratislava, (forthcoming).
 151. Interview with Iveta Radicova.
 152. CCPR, "Concluding Observations of the Human Rights Committee: Slovak Republic," CCPR/C/79/Add., 79, para. 14.
 153. ECRI, *Legal Measures*, par. 1.2., 423-434.
 154. Civil Procedure Code, art. 247, par. 2.
 155. Act No. 40/1964 Coll. Civil Code as amended, sec. 11.
 156. *Ibid.*, sec. 13, par. 1.

157. The Deputy Prime Minister for Human Rights, Minorities and Regional Development Office is required to draft the "Act on the Public Defender of Human Rights" before September 2001. See Government of the Slovak Republic: "Priority Tasks of the Government of the Slovak Republic Arising from the Regular Report from the European Commission on the Slovak Republic's Progress Towards Accession to the European Union of 8.11.2000." See also Resolution of the Government, No. 17/2001 (10 January 2001), as amended.
158. Amendment to Constitution Article III (2001), with entry into force on 1 July 2001 except for Article 151a, which will enter into force on 1 January 2002.
159. Slovak Constitutional Court Decision No. 1/96, 18 January 1996.
160. United Nations High Commissioner for Refugees (UNHCR), *Proposed Guidelines Relating to the Eligibility of Slovak Roma Asylum Seekers* (1997), par. 3.1.
161. According to Andrea Raslova, a Slovak Helsinki Committee lawyer who has worked on the cases from Presov, in many instances social workers placed hand-written notes on the bottoms of decisions saying "the claimant renounced his right to appeal" and told the Roma that they have the obligation to sign it. Intimidated and not understanding the legal consequences, many of them have signed. Interview with Andrea Raslova, Bratislava, 17 April 2000.
162. Raslova, A., *Discrimination against Roma and Retroactive Application of the Social Assistance Act*.
163. The benefits were suspended between 1 November 1998 to 24 February 1999. The case was later resolved in favor of Mr. Balaz. Raslova, A., *Discrimination against Roma and Retroactive Application of the Social Assistance Act*.
164. The statement was reportedly made during a lecture at the school of Slavonic and East European Studies in London, on 15 November 1996. See "Hold on a Minute," *The Observer*, 1 December 1996.
165. Fisher, S., *OMRI Daily Digest*, 7 September 1993.
166. RFE/RL Newsline: "Slovak President Says Roma Lack Will to Integrate," 30 November 1999, <http://www.rferl.org/newsline/1999/11/301199.html>
167. As cited by European Roma Rights Center, in "Letter to Slovak Prime Minister Mikulas Dzurinda," 23 February 2000.
168. Technically, it was a temporary suspension of the visa waiver agreements between Slovakia and these countries.
169. Bilcik, V., et al., "Foreign and Defense Policy of the Slovak Republic," in *Slovakia 2000*, 234.
170. According to a 1994 FOCUS survey, 85 percent of Slovak respondents said they believed that Roma are not discriminated against in Slovakia. See UNDP, *National Human Development Report – Slovakia 1998* (Bratislava: UNDP, Center for Economic Development, 1999): 69.
171. According to Radio Free Europe/Radio Liberty of 7 December 1999, Deputy Prime Minister for Human Rights, Minorities and Regional Development Pal Csaky stated that he saw "no reason for Slovak citizens to emigrate for reasons of political or ethnic discrimination."
172. On April 2000, the Slovak Roma Intelligentsia to Coexistence (RIS) expressed its concern that "a majority of Slovak state representatives have adopted an anti-Roma vocabulary, calling them opportunists, economic emigrants or ethno-tourists." TASR-SLOVAKIA: "Figel: Belgian Decision Is Inappropriate," 7 April 2000.
173. Radio Prague, "Roma Minority Unrest in Slovakia," 17 August 1999.
174. Radio Free Europe/Radio Liberty, "Belgium Imposes Visa Requirement on Slovakia," 4 December 1999.
175. TASR- SLOVAKIA, "Prime Minister: Cabinet Underestimated Media Influence in Roma Issue," 9 April 2000.
176. CTK: "Fico Wants to Deprive Emigrating Roma of Social Benefits," January 2000.
177. CTK: "Asylum Speculators Should not get Benefits for One Year - Fico," 15 January 2000.
178. TSAR-Slovakia: "SNS: Gypsies Drawing Barbed Wire around Slovakia," 14 January 2000.
179. Togneri, C., "Racial Beatings Increase," *Slovak Spectator*, 25 December 2000 - 7 January 2001, vol. 6, no. 49.
180. Angelovic, M., "Fico: Roma Can Ruin Social System of Slovakia," *Národná obroda*, 10 June 2000, http://195.168.40.176/20000610/02_006.html
181. Togneri, C., "Racial Beatings Increase."
182. Butorova, Z., Gyarfásova, O., Velsic, M., "Public Opinion" in *Slovakia 2000*, 207, Table 5.
183. Nicholsonová, L., "Opposition Puts New Early Elections Case," *Slovak Spectator*, 26 March - 1 April, 2001, vol. 7, no. 12.

184. "Assistance to Organizations Involved with Human Rights Protection in Slovakia, Monitoring Human Rights Violation of Roma and Creating a Web Site," *Shortened Version of Reports from Fact-finding Missions to Various Regions of Slovakia Conducted in 1998* (Slovak Helsinki Committee Project): 3.
185. Romani inhabitants of Rudnany "just want to see how much money the state will give them. A Roma just goes to the post office once a month to pick up money." See Erlanger, S., "The Gypsies of Slovakia: Despised and Despairing," *The New York Times*, 4 March 2000, 10.
186. Document of the Municipality of Nalepkovo, "Information on the solution to the Gypsy problems in the municipality of Nalepkovo," as cited by Krajcovicova, 37.
187. Butorova, Z., Gyarfasova, O., Velsic, M., "Public Opinion" in *Slovakia 2000*, 222, Table 15.
188. Vasecka, M., *The Roma in Slovakia – Report on the Situation in 1998-1999*, 19.
189. Head of the Social Assistance Department in Gelnica, as cited in Krajcovicova, 53.
190. Non-Romani inhabitant of Nalepkovo, as cited in Krajcovicova, 52.
191. Data from January 1999. Butorova, Z., Gyarfasova, O., Velsic, M., "Public Opinion" in *Slovakia 2000*, 221, Table 15.
192. *Ibid.*, 221, Table 15.
193. FOCUS, *Current Problems of Slovakia after the Split of Czechoslovakia* (October 1993).
194. Butorova, Z., Gyarfasova, O., Velsic, M., "Public Opinion" in *Slovakia 2000*, 222, Table 15.

Lack of Adequate Health Care

1. According to recent reviews of published literature, 70 percent of all available information on Roma health comes from Spain, the Czech Republic and Slovakia. Hagioff, S., McKee, M., "The Health of Roma People: A Review of the Published Literature" *Journal of Epidemiology and Community Health* (2000), vol. 54: 864-869.
2. European Center on Health of Societies in Transition (ECOHST), "Health Needs of the Roma Population in the Czech and the Slovak Republics: Literature Review," 2000.
3. Ibid.
4. "Most of the published literature dealing with the health of Slovakia's population concentrates on a high dissemination rate of contagious and venereal diseases among Roma." IOM, *Social and Economic Situation of Potential Asylum Seekers from the Slovak Republic*, 53. See also Hagioff, S., McKee, M., 864-869.
5. As an exception to the general rule, there is relatively abundant research which indicates that primary congenital glaucoma (PCG) occurs at an unusually high frequency in Romani settlements. Plasilova, M., Stoilov, I., Sarfarazi, M., Kadasi, L., Ferakova, E., Ferak, V., "Identification of a Single Ancestral CYP1B1 Mutation in Slovak Gypsies Affected with Primary Congenital Glaucoma" in *Journal of Medical Genetics* (1999), vol. 36, no. 4: 290-294.
6. A 1981 study found that Romani children between the ages of 6 and 16 were more exposed to parasites, bacteria, and viruses than non-Romani children of the same age group. Bernasovsky, I, Petrasova, D, Cesnak, D, Bernasovska, K., "Observation of Some Biological Parameters in Gypsy Children," *Cs Hygiene* (1981) vol. 81, no. 26: 263-268.
7. Higher prevalence of tuberculosis and a slower recovery of Romani patients from Western Slovakia as compared to non-Romani patients was documented in the 1960s. Pozdechova, E, Badalik, L, Virsik, K., "Prevalence of Pulmonary Tuberculosis among Gypsy Citizens" in *Epidemiological and Clinical Study of Tuberculosis in West Slovakia 1963-1967*, Bratislava Lekarske listy (1969) vol. 51, pp. 201-208.
8. IOM, *Social and Economic Situation of Potential Asylum Seekers from the Slovak Republic*, 112.
9. Orgovanova, K., "Roma and Health in Slovakia," presentation at the Albert Schweitzer Institute seminar, "Roma and Health," Sinaia, Romania, April 2001.
10. Jurova, A., *Developments of Roma Problems in Slovakia after 1945* (Bratislava: Goldpress Publishers, 1993).
11. IOM, *Social and Economic Situation of Potential Asylum Seekers from the Slovak Republic*, 112.
12. Vasecka, M., "The Roma" in *Slovakia 2000*, 193.
13. The Government of the Slovak Republic: "Strategy of the Government of the Slovak Republic for the Solution of the Problems of the Roma National Minority and the Set of Measures for Its Implementation (Stage I), Explanatory Report," (September 1999): 21, 27.
14. IOM, *Social and Economic Situation of Potential Asylum Seekers from the Slovak Republic*, 54.
15. Jurova, A., Koptova, A., "Vulnerable Populations: Children and Young People of the Roma Ethnic Group" in *Children in Slovakia 1999*, 48.
16. Ibid., 47.
17. European Commission, *1999 Regular Report from the Commission on Slovakia's Progress Towards Accession*, 13 October 1999, Annex: Statistical Data.
18. Jurova, A., Koptova, A., "Vulnerable Populations: Children and Young People of the Roma Ethnic Group" in *Children in Slovakia 1999*, 47.
19. European Commission, *1999 Regular Report from the Commission on Slovakia's Progress Towards Accession*, Annex: Statistical Data.
20. Seres, I., "Specific Issues in Gypsy Population Prenatal Care," *Slov Gynek Porod* (1998) vol. 5:125-131.
21. Ringold, D., *Roma and the Transition in Central and Eastern Europe – Trends and Challenges* (World Bank, 2000): 21.
22. UNICEF, "Women in Transition," *The MONEE Project, Regional Monitoring Report*, (UNICEF, 1999) no. 6: 116 Table 2.5.
23. A rise in the percentage of children with low birth weight may partially reflect improved prenatal and obstetric care that results in fewer stillbirths and more survivors with low weights. It can also reflect decline in maternal health due to factors such as poorer nutrition.
24. UNICEF, "Women in Transition," 60.
25. Ringold, D., *Roma and the Transition in Central and Eastern Europe – Trends and Challenges*, 21.

26. "Everyone has a right to the protection of his health. Based on public insurance, citizens have the right to free health care and to medical supplies under conditions defined by law." Article 40 of the Slovak Constitution (1992).
27. The Public Health Act, No. 272/1994 Coll. was amended by Act No. 22/1996, Act No. 290/1996, Act No. 95/2000 and, Act No. 470/2000 from 5 December 2000. [Henceforth "Public Health Act, No. 272/1994 Coll. as amended."]
28. Public Health Act, No. 272/1994 Coll. Article, as amended.
29. Article 40 of the Slovak Constitution (1992).
30. Deontological Codex of Slovak Chamber of Doctors, approved in 1992 as further amended.
31. *Ibid.*, "Doctors and Health," section.
32. *Ibid.*, art. 44, par. 2.
33. *Ibid.*, art. 44, par. 3.
34. Health Insurance Law, No. 273/1994, as amended, art. 3, par. 1. [Henceforth "Health Insurance Law" unless otherwise noted.]
35. *Ibid.*, art. 3, par. 2.
36. *Ibid.*, art. 10, par. 1.
37. *Ibid.*, art. 9(c).
38. *Ibid.*, art. 10, par. 6.
39. Interview with Agnes Horvathova. Executive Director, Slovak Helsinki Committee, 26 April 2000.
40. Alexander Musinka, Minoritas Association, Presov, Slovakia, 19 April 2000.
41. Good Romani Fairy Kesaj Foundation, "Segregation with the Silent Consent of the Authorities" in *White Book 2000*, 22-25.
42. Z.Y., statement made during an NGO meeting in Kezmarok, 2 March 2001, meeting report on file. Z.Y. did not want her identity disclosed.
43. The Public Interest Law Program, Center for Environmental Public Advocacy, *Narrative Report for the First Project Period* (January - December 1999), 21 March 2000, Attachment 1: "There can be no racial motivation in the attacks against Roma."
44. U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices for 2000, Slovakia* (February 2001), section 1(c).
45. U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices for 1999, Slovak Republic* (February 2000), section 1 (e).
46. Amnesty International, *Annual Report 2000 - Slovakia*, <http://www.web.amnesty.org/web/ar2000web.nsf/europe>.
47. Pisárová, M., "New Gulf Divides Roma and Police," *Slovak Spectator*, 26 March - 1 April 2001, Vol. 7, No. 12.
48. Interview with Edmund Muller, Roma Legal Defense Agency (RLDA), Kosice, 6 March 2001.
49. Good Romani Fairy Kesaj Foundation, "Legal Defense Bureau of Ethnic Minorities in Slovakia" in *White Book 1999*, 8.
50. Letter from the Legal Defence Bureau to the Ministry of Health, published in Good Romani Fairy Kesaj Foundation, *White Book 2000*, 57-58.
51. The complaint has been registered with the Inspection Department of Poprad Hospital under No.9/2000-st.
52. Letter of the Ministry of Health, addressed to the Legal Defence Bureau Kosice, received on 21 July 2000, and published in Good Romani Fairy Kesaj Foundation, *White Book 2000*, 58-59.
53. The Slovak Helsinki Committee representatives believe that "sometimes doctors refuse to issue medical certificates or issue them in a superficial manner when Roma victims are beaten by skinheads or subjected to police brutality." Interview with Agnes Horvathova.
54. Judgment, District Court in Banska Bystrica, 1 July 1999. This case generated a significant amount of publicity and debates among lawyers because in the first instance the court ruled that the criminal code provisions concerning racial motivation of the attack are not applicable to the case, because Roma and Slovaks are part of the same race. The Public Interest Law Program, Center for Environmental Public Advocacy, "Narrative Report for the First Project Period (January -December 1999)", 21 March 2000, Attachment 1: "There can be no racial motivation in the attacks against Roma."
55. Interview with Ivan Mako, Banska Bystrica, Slovakia, 18 April 2000.
56. Godwin, P., 85.

57. European Roma Rights Center, "Description of the Case LRG1999/2," Legal Department, 2001, (unpublished).
58. Mirga refused to pursue legal action against the police violence after being threatened allegedly by police officers. Interview with Peter Pompa, legal representative of Marian Mirga, Kezmarok, 6 March 2001.
59. Amnesty International, *Annual Report 2000-Slovakia*.
60. Interview with Julia Drurna, Head of the Department Violent Crimes, General Prosecutor's Office, Bratislava, 8 March 2001.
61. Peter Pompa, Sarissky family's legal council, Kezmarok, 6 March 2001.
62. Good Romani Fairy Kesaj Foundation, *White Book 1999*, 50.
63. Pisarova, M., "New Gulf Divides Roma and Police," *Slovak Spectator*, 26 March – 1 April, 2001, vol. 7, no. 12.
64. Council of Europe, ECRI, "ECRI's Country-by-Country Approach: Volume III," CRI(98)54 (Strasbourg, 15 June 1998), par. 61.
65. U.S. Department of State–Bureau of Democracy, Human Rights, and Labor: *The Slovak Republic Country Report on Human Rights Practices for 1996*, (January 1997), section 1(e).
66. U.S. Department of State–Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices for 2000, Slovakia*, section 1(e).
67. International Helsinki Federation for Human Rights, "Slovakia" in *Women 2000*, p. 400.
68. Slovak Society for Planned Parenthood, Bratislava as cited in International Women's Rights Action Watch (IWRAP), *Country Report: SLOVAKIA, 1999*, <http://www.igc.org/iwraw/publications/countries/slovakia.html>.
69. Under the previous health care regulations, gynecologists had a legal obligation to ensure regular check ups for all patients. Every woman had a health book in which the results of the medical examinations and doctor's recommendations were written down. Pregnant women were examined every month. Access to some pregnancy and motherhood-related benefits was conditioned on regular check ups.
70. Slovak Society for Planned Parenthood, Bratislava, as cited in International Women's Rights Action Watch (IWRAP), *Country Report: SLOVAKIA, 1999*.
71. Interview with Anna Koptova, Executive Director, Good Fairy Kesaj Foundation, Kosice, 20 April 2000.
72. Good Romani Fairy Kesaj Foundation, *White Book 1999*, 55.
73. Ibid.
74. Ibid.
75. Minutes of telephone conversation between Lubica Turcanova, on behalf of the author and Dr. Dzur, gynecologist at Nemocnica s poliklinikou KVP, Hospital KVP in Kosice, 20 September 2000.
76. Photo of the schedule posted on the cabinet door. On file with author.
77. Author's visit to Health Care Center, Gynecological Department, KVP, Kosice, March 2001.
78. Interview with Mrs. Lacko, Jarovnice, 19 April 2000.
79. Interview with H.B., Romani woman activist who gave birth in this maternity.
80. Interview with M.P., Romani woman activist who gave birth in this maternity.
81. Interview with M.P., Romani activist, Kezmarok, 6 March 2001.
82. Interview with K.R. Romani woman activist who gave birth in this maternity ward.
83. The fact was confirmed during the author's visit in Kezmarok, 6 March 2001.
84. Interview with A. H., Romani woman from Rudnany - Patoracka. According to the Slovak Helsinki Committee, the reluctance to share meal facilities with Roma seems to be a rather common occurrence in Slovakia, especially among young people. A survey conducted among students in elementary and high schools in March 2000, showed that 53 percent of youngsters would not like to sit at lunch with Roma. Other nationalities fared better: Only eight percent of school children would not want to sit at lunch with Africans, while 17 percent would not enjoy the company of Hungarians. See Foundation for a Civil Society, "Slovak News Update," (March 2000, Bratislava).
85. Interview with M.T., Romani woman from Richnava, 21 April 2000.
86. Good Romani Fairy Kesaj Foundation, "Segregation with the Silent Consent of the Authorities," in *White Book 2000*, 24.
87. Ibid., 23.
88. Ibid., 22.

89. Ibid., 22-25.
90. Interview with J.C., Romani woman from Richnava, 21 April 2000.
91. Good Romani Fairy Kesaj Foundation, "Segregation with the Silent Consent of the Authorities," in *White Book 2000*, 22.
92. Ibid., 23.
93. Ibid., 22.
94. Interview with Mrs. Lacko, Jarovnice, 19 April 2000.
95. Good Romani Fairy Kesaj Foundation, "Segregation with the Silent Consent of the Authorities," in *White Book 2000*, 23.
96. Interview with A. H., Romani woman from Rudnany - Patoracka.
97. One argument in favor of segregation was that some Romani women smoked in joint rooms, which led non-Romani mothers to complain. Radicova, I., *Social and Living Conditions in a Slovak Roma Settlement*, 36.
98. Good Romani Fairy Kesaj Foundation, "Segregation with the Silent Consent of the Authorities," in *White Book 2000*, 22.
99. Ibid.
100. Ibid., 25.
101. Ibid., 25.
102. Ibid., 25. When Romani women indicated that they preferred to be separated, it was because the non-Romani women treated them badly. Bozena H., a 32-year-old mother of seven in Spisska Nova Ves, said she was glad to be placed with Roma because the non-Romani women "always showed how much they disliked [her]."
103. Human Rights Watch, *Struggling for Ethnic Identity: Czechoslovakia's Endangered Gypsies* (New York: Human Rights Watch, 1992).
104. In 1976, the Czechoslovak newspaper *Vychodoslovenske noviny* published the official text of government's plans for the sterilization of Roma as an act of "socialist humanity." Patrin, "Timeline of Romani History, <http://www.geocities.com/Paris/5121/timeline.htm>
105. "The wider public knew next to nothing about ... the forced sterilization of Roma women ... and writing on the subject was forbidden. This taboo was broken by [Czechoslovak] dissidents only in 1978, when Charter 77 published a report, Document Twenty-Three." Siklova, J., Miklusakova, M., "Law as an Instrument of Discrimination - Denying Citizenship to the Czech Roma," *East European Constitutional Review* (New York: New York University, School of Law, Spring, 1998) vol. 7, no. 2.
106. Wells, J., "Silent attack: A Campaign of Sterilization of Romani Women," *Roma Rights-Newsletter of the European Roma Rights Center*, no. 1, 2000, p. 47.
107. BBC, World Monitoring Service, "Prague Led Gypsy Sterilization Policy - Czech Weekly," 16 December 1997.
108. Wilson, F., "On Barren Soil," *The Prague Post*, 2 May 2001.
109. Ibid.
110. Pellar, R., Zbynek, A., *Report on the Examination in the Problematic of Sexual Sterilization of Romanies in Czechoslovakia* (1989, unpublished).
111. Wells, J., 47.
112. Implementation Guidelines No: Z- 4 582/1972 - /1 issued by the Slovak Socialist Republic Ministry of Health, dated 14 April 1972, entered into force on 1 July 1972, Annex: Part XVI: Gynecological indications. as amended in 1985.
113. Pellar, R., Zbynek, A., *Report on the Examination in the Problematic of Sexual Sterilization of Romanies in Czechoslovakia*.
114. Human Rights Watch, *Struggling for Ethnic Identity: Czechoslovakia's Endangered Gypsies*, 22-23.
115. Information provided by the victim's lawyer, who insisted on not having his client's name disclosed. Personal communication with the author, May 2001.
116. Statement of Romani woman during meeting in Kezmarok, 13 March 2001, meeting report on file.
117. Ibid.
118. The city of Most belongs today to the Czech Republic.
119. Dr. Jiri Biolek, as cited in *Struggling for Ethnic Identity: Czechoslovakia's Endangered Gypsies*.
120. Decision CSV:VV-47/1991, District Examining Office of the Police Corps of the Slovak Republic, Presov, 30 September 1991, as cited in *Struggling for Ethnic Identity: Czechoslovakia's Endangered Gypsies*.

121. Wells, J., 48.
122. Fox, J., "Roma (Gypsies) in the Slovak Republic," <http://www.bsos.umd.edu/cidcm/mar/slvroma.htm> British Broadcasting Corporation (BBC), 9 March 2000.
123. UN Committee on the Rights of the Child, *Initial Reports of States Parties: Slovakia* (17 August 1998) CRC/C/11/Add.17, par. 152.
124. Under Article 12 of CEDAW, women have the right "to be fully informed, by properly trained personnel, of their options in agreeing to treatment or research, including likely benefits and potential adverse effects of proposed procedures and available alternatives." Committee on the Elimination of Discrimination against Women, *General Comment 24*, "Women and Health", 2 February 1999, A/54/38/Rev.1, chapt. I.
125. Romani representatives from Slovakia and other European Countries expressly formulated this demand during a conference organized at the request and with the cooperation of the Czech and Slovak authorities in Stupava, Slovakia, from 30 April to 2 May 1992. Project on Ethnic Relations (PER), "The Romanies in Central and Eastern Europe: Illusions and Reality," www.per-usa.org/rctr_eu.htm.
126. European Roma Rights Center, "Letter to Slovak Prime Minister Mikulas Dzurinda," 23 February 2000.
127. Romani annual population growth is approximately 2.3 percent. See UNDP, *National Human Development Report - Slovakia 1998*, 63.
128. Associated Press, 8 September 1993. Speech delivered in Spisska Nova Ves.
129. *OMRI Daily Digest*, "Slovak Roma Uneasy about Health Minister's Statements," 31 October 1995.
130. "Journalists Bribed at Meeting with Brandy," *Novy cas*, 1 June 1998.
131. Vasecka, M., "The Roma" in *Slovakia 2000*, 188.
132. Schlager, E., "The Plight of the Roma in Eastern Europe: Free At Last?" EES Discussion, 24 January 2001, Meeting Report no. 226.
133. Boris Vano, *Romano L'il Nevo*, no. 448-454.
134. *Pravda*, "There Are More and More Roma Children: Births out of Control", 1 June 1998, p. 3.
135. Rudnany's deputy mayor, Ladislav Sabo, as cited in Erlanger, 10.
136. "Record in Roma Birthrate," *Vychodoslovenske noviny*, 7 July 2000.
137. Ministry of Health of the Slovak Republic, *Position Paper on the Working Draft of the Document National Strategy of Sustainable Development in the SR* (16 October 2000).
138. "During the year 1999, approximately 4,680 Slovak citizens applied for asylum in West European countries. Over 1,600 Roma applied for political asylum in Finland, followed by smaller migrations to Norway, Denmark, Switzerland, Belgium, the Netherlands, and Austria for the same purpose. This resulted in July, with the Finnish and Norwegian Governments imposing four-month suspensions of their visa waiver agreements with Slovakia, which elapsed by year's end. On 30 November, Denmark also imposed a temporary entry visa requirement, to be lifted after the wave of Romani immigrants decreased. By year's end there were no official reports that any of these asylum cases had been adjudicated successfully. U.S. Department of State—Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices for 1999, Slovak Republic* (February 2000), section 5.
139. Information collected by the Amnesty International Finnish Section, campaign manager Inka Hetemaki, during November 1999 and March 2000, based on the information given by the nurses from asylum-seeker reception centers. Documents on file.
140. Ibid.
141. Information provided by the Reception Center in Kemijarvi, Finland, document on file.
142. Information provided by the Reception Center in Ruukki, Finland, document on file.
143. Information provided by the Reception Center in Kemijarvi, Finland, document on file.
144. Ibid.
145. Information provided by the Reception Center in Kuopio, Finland, document on file.
146. Information provided by the Reception Center in Kemijarvi, Finland, document on file.
147. Personal communication of the author with X.X., March 2001.
148. Personal communication of the author with the person who witnessed the incident during which the doctor told the young Romani girl that she was sterilized. March 2001.
149. Czech News Agency (CTK), "La Libre Belgique on the Communist Sterilization of Roma," 11 February 1998, 10 March 1998, as cited by International Women's Rights Action Watch (IWRRAW), *Country Report: SLOVAKIA*, 1999, <http://www.igc.org/iwraw/publications/countries/slovakia.html>

150. Interview with Michal Vasecka, Institute for Public Affairs, Bratislava, 27 April 2000.
151. Wells, J., 48.
152. Amalia Pompova, Romani activist, Kezmarok, March 2001.
153. OPRE Roma, Press Release: "Roma and foreigners testify about racism and xenophobia in Slovakia," Brussels, 9 March 2000.
154. TASR-SLOVAKIA, "Csaky's Office Refuses Information on Regretful Situation of Minorities," 9 March 2000.
155. CEDAW entered into force in Slovakia on 27 June 1993.
156. CEDAW, art. 12, par. 1.
157. Committee on the Elimination of Discrimination against Women, *General Comment 24*, "Women and Health", 2 February 1999, A/54/38/Rev.1, chapt. I, par. 20.
158. Ibid.
159. Ibid.
160. Health Insurance Law, art. 9(c).
161. See the references to residence status in the Access to Housing section of this report.
162. Health Insurance Law, art. 8, par. 2 and art. 10, par. 6.
163. Edmund Muller, Roma Legal Defense Agency (RLDA), Kosice. Telephone discussion. 24 April 2000, notes on file.
164. Orgovanova, K., "Roma and Health in Slovakia," presentation at the Albert Schweitzer Institute seminar "Roma and Health," Sinaia, Romania, April 2001.
165. Good Romani Fairy Kesaj Foundation, "The Consequences of Resolution 55/95 for the Inhabitants of Lunik IX, Kosice" in *White Book 2000*, 39.
166. World Health Organization, *Slovakia-Country Profile*, <http://www.who.dk/id/cpslov.html>. Lapses in immunization coverage seem to be the reason for the worrying trend of outbreaks of measles within Roma communities in Slovakia. See Ringold, D., *Roma and the Transition in Central and Eastern Europe – Trends and Challenges*, 21.
167. The accuracy of the immunization reports was discussed during the "Roma and Health" seminar organized by the Albert Schweitzer Institute, Sinaia, Romania, 26-28 April 2001. Slovak doctors drew the attention of the audience to the so-called "vaccination on the paper" a practice whereby certain doctors report children – and particularly Romani children – as vaccinated, when in reality they are not.
168. Slovak health authorities have reported that 98 percent of the children have been vaccinated against this disease. World Health Organization, *Slovakia-Country Profile*, <http://www.who.dk/id/cpslov.html>. While that certainly still leaves thousands of non-immunized children, there is clearly a pattern of non-vaccination when dozens of children in the same area contract the condition.
169. According to Janka Staskova, epidemiologist for Kosice region, out of 300 Romani children, only 39 have been vaccinated against meningitis. See Korzar, "Roma from Michalovce are Refusing to Get Vaccinated against Meningitis," Michalovce 2000, 16 February (TASR).
170. Ibid.
171. Interview with Maria Butkovicova, pediatrician, Sabinov Hospital, 19 April 2000.
172. Developing preventative health care systems in general and immunization systems in particular is part of this obligation. As a state party to the UN Convention on the Rights of the Child, the Slovak Republic has the obligation to ensure that all children, regardless of their ethnic background, reach the same level of vaccination and are equally protected against diseases. The United Nations Committee on the Rights of the Child has expressed grave concern where immunization rates have fallen, stressing the importance of vaccination coverage for the respect of children's health rights. UNICEF, *Implementation Handbook for the Convention on the Rights of the Child* (1998): 331.
173. For example, many Roma associate immunization with the practice of sterilization or believe that disease is introduced into the body through vaccines. Deep mistrust of non-Roma health institutions is another reason.
174. "Once there was a distress call from one Romani man who urgently asked for an ambulance, insisting that his wife and daughter felt very sick. We immediately sent an ambulance only to find them sleeping." A doctor from Eastern Slovakia cited by Radicova, I., *Social and Living Conditions in a Slovak Roma Settlement*, 35.
175. Ibid.
176. Roma Legal Defense Agency, *Special Human Rights Report – Moldava nad Bodvou – 9-30 March 2001*, (forthcoming), "The ambulance cannot enter the settlement [in Moldava nad Bodvou] but waits at the

top of the hill on the main road ... [because] it does not fit through the narrow pathway leading into the settlement and it would be very difficult for it to get up and down the steep path. The inhabitants told us that they have to wait up to two hours for the ambulance to arrive..."

177. The Government of the Slovak Republic, "Strategy of the Government of the Slovak Republic for the Solution of the Problems of the Roma National Minority and the Set of Measures for Its Implementation (Stage I)" (27 September 1999).

178. Roma Legal Defense Agency, *Special Human Rights Report - Jasov - March 2001*, (forthcoming) reads: "There is a doctor living in town [of Jasov] 500 meters from the settlement. . . .One year ago, . . .[a] Roma man, Mr. Pompus, suffered a heart attack and when the doctor was called, she refused to come down to the settlement. An ambulance arrived, but could only wait on the road above the settlement. The police came and demanded that the doctor administer first aid, but again she refused . . .the man died in his shack."

179. Vasecka, M., "The Roma" in *Slovakia 2000*, 181.

180. Radicova, I., *Social and Living Conditions in a Slovak Roma Settlement*, 35.

181. *Ibid.*, 35.

182. Delegation of the European Commission in the Slovak Republic, *Mission to Eastern Slovak Roma Settlements, 26–28 May 1999* (1999, unpublished).

183. Interview with Romani inhabitants of Letanovce, 21 April 2000.

Lack of Adequate Housing

1. Czechoslovak Government, "Resolution of the Czechoslovak Government, No. 502/1965," 13 October 1965, on guided displacement and dispersion of Roma.
2. Government of the Slovak Republic, "Decree No. 94/1972," and Czechoslovak government, "Decree No. 231/1972."
3. UNDP, *National Human Development Report, Slovak Republic 2000*, 103.
4. Bucek, J., *Land, Ownership and Living Environment of Roma Minority in Slovakia* (Budapest: Local Government and Public Service Reform Initiative, Open Society Institute, 2000): 8, <http://www.osi.hu/lgi/ethnic/relations/bucek/index.html>
5. Ministry of Labor, Social Affairs and Family, *Social Policy of the Slovak Republic in 1997* (Bratislava: 1998): 68.
6. Bucek, J., *Land, Ownership and Living Environment of Roma Minority in Slovakia*, 8.
7. In practice, there are various degrees of segregation, depending on the type of access road (asphalt or dirt) and the existence of other services.
8. UNDP, *National Human Development Report, Slovak Republic 2000*, 103.
9. Data collected by the office of the Slovak government Commissioner for Roma Affairs during the second half of 2000. See Vasecka, M., "The Roma" in *Slovakia 2000*, 192.
10. Ministry of Labor, Social Affairs and Family, *Social Policy of the Slovak Republic in 1998* (Bratislava: 1999): 91.
11. Radicova, I., *Social and Living Conditions in a Slovak Roma Settlement*.
12. Slovakia has eight big regions. In five of them there are only a handful of Romani settlements, i.e., Bratislava (10), Tarnava (12), Trencin (8), Nitra (12), and Zilina (8), while in the remaining three regions, in Eastern Slovakia the numbers are ten to twenty times higher: Banska Bystrica (111), Presov (227) and Kosice (97). See Ministry of Environment, *Update of the Overview of Roma Settlements with Specific Attention to Dwellings (Shelters) Built without Construction Permission and Necessary Technical Infrastructure to 31 December 2000*.
13. Government of the Slovak Republic, "Strategy of the Government of the Slovak Republic for the Solution of the Problems of the Roma National Minority and the Set of Measures for Its Implementation (Stage I)" (27 September 1999) Explanatory Report, housing, 19.
14. Bucek, J., *Land, Ownership and Living Environment of Roma Minority in Slovakia*, 10.
15. According to the Ministry of Labor, Social Affairs and Family, out of an estimated 400,000 Slovak Roma, 124,031 were living in rural settlements in 1998. Ministry of Labor, Social Affairs and Family, *Social Policy of the Slovak Republic in 1998* (Bratislava 1999): 91.
16. Ministry of Labor, Social Affairs and Family, Bratislava 1999, *Social Policy of the Slovak Republic in 1998*, 91.
17. Ministry of Environment, *Update of the Overview of Roma Settlements with Specific Attention to Dwellings (Shelters) Built without Construction Permission and Necessary Technical Infrastructure to 31 December 2000*.
18. According to Iveta Radicova, the 2000 update of the Ministry of Environment study is entirely based on unverified information that was provided by mayors and varies widely in quality. Personal communication with the author, 7 March 2001.
19. "Questionnaires for the monitoring of the situation of Roma settlements 2000," Inforoma.
20. Czech News Agency (CTK), "Slovaks not Rejecting the Idea of Segregating Roma," 28 December 1999.
21. Moric used the term "reservations" in the sense of "separated living areas."
22. The press conference was held in the premises of the Slovak National Party, in Bratislava, on 4 August 2000. The resolution was issued by Bratislava District Office, 10 October 2000 (Decision number: 1Pv 616/2000). Romani representatives, as well as several human rights activists brought charges against Moric, who was subsequently stripped of his immunity as a member of parliament. The investigation began in the fall of 2000. The charges against Moric were quickly dropped, but the case was reopened by intervention from the General Prosecutor and was still pending as of August 2001.
23. RomNews Network (RNN), "Slovak Parliament Lifts Politician's Immunity," 23 September 2000, Bratislava.
24. UK Refugee Council, 44.

25. Survey conducted by the Institute for Public Affairs in January 1999, cited by Butorova, Z., Gyarfasova, O., Velsic, M., "Public Opinion," in *Slovakia 2000*, 222, Table 15.
26. In 1993, the percentage of respondents who stated that they would mind if Roma moved into their neighborhoods was 79 percent. In 1997, the figure reached 80 percent. In 1999, it was 76 percent, and in the year 2000, 78 percent. See Butorova, Z., Gyarfasova, O., Velsic, M., "Public Opinion," in *Slovakia 2000*, 220.
27. Survey carried out in 1995 by the Documentation Center for Research of the Slovak Society in the village of Rudnany (East Slovakia) and cited by the UNDP, "The Romanies in Slovakia" in *National Human Development Report – Slovakia 1998*, 69.
28. In a 1994 study, 57 percent of respondents said that the state should adopt stricter laws for the Roma. A 1995 study found that 52 percent of the Slovaks support the idea of different legal standards for Roma than non-Roma. In March 2000, 53 percent of the Slovak respondents declared that "special or stricter laws should be in place for the Roma." Butorova, Z., Gyarfasova, O., Velsic, M., "Public Opinion" in *Slovakia 2000*, 221-222.
29. The opinion poll was conducted by Taylor Nelson Sofres (TNS) agency, 8-12 December 1999. It included 1046 respondents over 18 years of age. When asked "Are you in favor of measures that would ensure that Roma would live segregated from the majority of citizens, have their own schools, etc.?" more than 36 percent of those polled gave a direct "yes" answer. About 24.3 percent said that they are rather in favor of such measures. *Narodna Obroda*, 28 December 1999, p. 2 and SME, 28 December 1999, p. 2. See also TASR-Slovakia, "RIS Protests against Poll on Roma Segregation," 28 December 1999.
30. 1995 Documentation Center for Research of Slovak Society, DCVSS survey.
31. On 1 June 1993 the village of Spisske Podhradie adopted an ordinance that referred explicitly to "citizens of Roma origin and other suspicious persons." The ordinance forbade Roma from leaving their homes at night and allowed members of the city police to enter private houses of Romani citizens. The district attorney halted implementation of the ordinance, and on 15 June 1993 the National Council of the Slovak Republic declared it null and void.
32. UNDP, "The Romanies in Slovakia," in *National Human Development Report, Slovakia 1998*, 67. For example, some non-Romani inhabitants of Zehra circulated a petition urging a referendum on the partition of the town in Romani and non-Romani areas.
33. See Nagov and Rokytovce cases below.
34. The Constitution guarantees assistance necessary to ensure basic living conditions. The law defines these basic living conditions as one hot meal a day, necessary clothing and a shelter. See: Social Assistance Act, art. 2, par. 3.
35. Slovak Constitution (1992) as amended, art. 39, par. 2.
36. ECRI, *Second Report*, par. 14.
37. UK Refugee Council, 40.
38. The mayor of Lunik IX told a delegation of the UNHCR's Bratislava office that, out of 2000 Roma who were living in 1996 in Lunik IX, anywhere from 400 to 700 did not have permanent residence. UNHCR, *Mission to the Eastern Slovak Roma Settlements*, 21-24 April 1996 (unpublished).
39. The Inforoma team found more than 200 people without valid identification cards in Lunik IX in 1997. In Spisska Nova Ves, the team reported the presence of many Roma who, after being expelled from the Czech Republic, were denied residence by Slovak authorities, despite being de jure Slovak citizens. Inforoma Foundation, *Reports of Fact-Finding Missions to: Kosice - Lunik IX, Presov, Secovce, Spisska Nova Ves, Moldava nad Bavou, August 1996 – May 1998* (Bratislava, 1998).
40. According to the League of Human Rights Advocates, Romani children with Slovak citizenship, who were raised in Czech orphanages, were unable to secure residence and obtain Slovak IDs when they returned from the Czech Republic. Interview with Miroslav Lacko, Bratislava, 26 April 2000.
41. Information provided by Martina Hornofova, a Czech student who worked in the settlement during the spring of 2000, Letanovce, 21 April 2000. The number of the people without residence status appears to be four times higher than in 1996, when the mayor told an UNHCR fact-finding mission that 50 Roma, out of 600 did not have a permanent residence permit. See UNHCR, *Mission to Eastern Slovak Roma Settlement, 21-24 April 1996*, 11.
42. Interview with Jolana Nather, Project Coordinator, Hope for Children, Banska Bystrica, 6 March 2001.
43. Radicova, I., *Social and Living Conditions in a Slovak Roma Settlement*.
44. IOM, *Social and Economic Situation of Potential Asylum Seekers from the Slovak Republic*, 110.
45. In particular, children of the families that returned from abroad encountered difficulties in enrolling in school because they did not have permanent addresses. U.S. Department of State–Bureau of

Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 1999, Slovak Republic* (February 2000), section 5.

46. Project on Ethnic Relations, "Political Participation and the Roma in Hungary and Slovakia," Kosice, 3-4 July 1998.

47. The conference was organized by the Slovak government, within the campaign against racism and xenophobia. Supplement 2, National Conference for the Prevention of All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Forms of Intolerance, conclusions of Working Group 2, annexed to the Resolution of the Government of the Slovak Republic No.283/2000 from 3 May 2000 Concerning the Action Plan for the Prevention of All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Forms of Intolerance for the Period of 2000-2001.

48. International Helsinki Federation, Bratislava office, *Report on the Matter of Cancellation of Permanent Residence of Two Roma families in Trnava* (February-March 1994, unpublished).

49. European Roma Rights Center, "Letter to Slovak Prime Minister Mikulas Dzurinda," 23 February 2000.

50. *Sme*, 28 November 1998, and *Narodna Obroda*, 30 November 1998. In 1999, under national and international pressure, the mayor agreed to issue the residence permits. U.S. Department of State—Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 1999, Slovak Republic* (February 2000), section 5.

51. Case reported by Andrea Raslova, Slovak Helsinki Committee, 17 April 2000. In 2000, H.G. obtained residence with the assistance of NGO lawyers.

52. Resolution No. 21 of the Emergency Meeting of the Municipal Council in Rokytovec on 8 June 1997, dated 9 June 1997.

53. Resolution No. 22, adopted by Nagov local council on 16 July 1997. The resolution was modified on 10 September 1998.

54. Dohovic, S., "Roma Colony Arose in Cabiny," *Korzo*, 19 June 1998.

55. European Roma Rights Center, "Letter to Slovak Prime Minister Mikulas Dzurinda," 23 February 2000.

56. The Slovak Republic's Deputy Prime minister for Human Rights, Minorities and Regional Development, the Chairman of the Parliamentary Committee on Human Rights, and the Chief Prosecutor intervened with local authorities to lift the ban. OSCE, *Report on the Situation of Roma and Sinti in the OSCE Area*, 104.

57. Czech News Agency (CTK), "Two Slovak Villages Scrap Anti-Roma Decrees," 19 April 1999.

58. European Roma Rights Center, "Letter to Slovak Prime Minister Mikulas Dzurinda," 23 February 2000, ERRC press release, 28 February 2000.

59. CERD, Anna Koptova v. Slovakia, "Opinion on Communication 13/1998," CERD/C/57/D/13/1998, 25 August 2000.

60. Ministry of Labor, Social Affairs and Family, *Social Policy of the Slovak Republic in 1998*, 91.

61. Illegal electricity consumption is to be found in some Romani settlements. (See Radicova, *Social and Living Conditions in a Slovak Roma Settlement*, 2.) Most people, however, are afraid to steal electricity because it is a criminal offense under Slovakia's Penal Code.

62. Author's visit in Letanovce, 21 April 2000.

63. Benesova, S., Cahn, C., O'Grady C., "The ERRC in Kosice, Slovakia," in *Roma Rights—Newsletter of the European Roma Rights Center* (Spring, 1998).

64. According to the statistics of the Ministry of Labor, Social Affairs and Family, out of 591 Romani settlements, 94 are without public lighting. Ministry of Labor, Social Affairs and Family, *Social Policy of the Slovak Republic in 1998*, 91. The statistics of the Ministry of Environment indicate 81 settlements without public lighting. Ministry of Environment, *Update of the Overview of Roma Settlements with Specific Attention to Dwellings (Shelters) Built without Construction Permission and Necessary Technical Infrastructure to 31 December 2000*.

65. UNHCR, *Mission to Eastern Slovak Roma Settlement, 21-24 April 1996*, 9.

66. Interview with J.S., Letanovce, 21 April 2000.

67. Interview with Alexander Musinka, Minoritas Project Director in Svinia, 19 April 2000.

68. The statistics of the Ministry of Environment state that Lozorno, Plavecky Stvrtok, and Male Levare settlements in Malacky, Bratislava appear to have garbage collection services, but researchers report that the population does not have waste bins at all or that the collection facilities are insufficient. See Radicova, I., *Social and Living Conditions in a Slovak Roma Settlement*.

69. Ibid.
70. Ministry of Environment, *Update of the Overview of Roma Settlements with Specific Attention to Dwellings (Shelters) Built without Construction Permission and Necessary Technical Infrastructure to 31 December 2000*.
71. Roma living on Debrandska street (Moldava nad Bavou) take water from the nearby stream. Roma Legal Defence Agency, *Special Human Rights Report – Moldava nad Bodvou*, (forthcoming).
72. For example, in Jablonove (Malacky, Bratislava).
73. For example, in Plavecky Strvrtok (Malacky, Bratislava).
74. Ministry of Environment, *Update of the Overview of Roma Settlements with Specific Attention to Dwellings (Shelters) Built without Construction Permission and Necessary Technical Infrastructure to 31 December 2000*.
75. European Roma Rights Center, "Time of Skinheads - Denial and Exclusion of Roma in Slovakia," *Country Reports Series* (January 1997) no. 3, 63.
76. According to UNHCR, infections traceable to the water supply led to the hospitalization of 12 Romani children in the period 1993-1996. UNHCR, *Mission to Eastern Slovak Roma Settlement, 21-24 April 1996*, 9.
77. *International Helsinki Federation, Bratislava office, Mission to Eastern Slovak Settlements, 21-24 April 1996* (unpublished).
78. In 1999, SPOLU, an international NGO active in the region, introduced one water pump, situated at the entrance of the settlement.
79. Ministry of Environment, *Update of the Overview of Roma Settlements with Specific Attention to Dwellings (Shelters) Built without Construction Permission and Necessary Technical Infrastructure to 31 December 2000*.
80. Ministry of the Environment of the Slovak Republic as cited by the Government in "Third periodic reports of States parties due in 1998, Addendum, Slovakia," CERD/C/328/Add.1, 14 December 1999, Table for 1997, 19.
81. Ibid., Table for 1998.
82. Delegation of the European Commission in the Slovak Republic, *Mission to Eastern Slovak Romani Settlements, 26-28 May 1999*.
83. "Prehl'ad romskych osad bez vybudovaneho zdroja pitnej vod" (List of Romani villages without any safe drinking water), office of the Slovak government Commissioner for Roma Affairs, 2000.
84. Radicova, I., *Social and Living Conditions in a Slovak Roma Settlement*.
85. Interviews with Romani inhabitants of Jarovnice, April 2000.
86. Radicova, I., *Social and Living Conditions in a Slovak Roma Settlement*.
87. In this context "running water" does not mean that there is water in each house, but that there is a source or several sources of running water for the entire settlement. Access to water is still very difficult - because of the distances and because of the large number of people using a single source, but at least the water from the public system is potable. The following are examples of settlements, which, according to the Ministry of Environment, have at least one source of running water if not more: Rakusy (Kezmarok, Presov) with 172 illegal houses out of a total of 175, Jablonov - Romska osada (Levoca, Presov) with 52 houses all of them illegally built, Liptovska Teplicka (Poprad, Presov) with 42 houses all of them illegally built, Lipani (Sabinov, Presov) with 23 all of them illegally built. Ministry of Environment, *Update of the Overview of Roma Settlements with Specific Attention to Dwellings (Shelters) Built without Construction Permission and Necessary Technical Infrastructure to 31 December 2000*.
88. According to Mr. Liptak, mayor of the town Roznava, the Romani settlement of Dobsina does not have access to drinking water because "there is 100 percent unemployment among the local Roma, they are not able to find work and that is why they cannot pay for the drinking water." Sobotka, E., "Roma Settlement Dobsina without Water," *Central Europe Review* (29 January 2001) vol. 3, no. 4.
89. The average cost of water is 10 Sk (U.S. \$.25) per month per person, as compared to minimum subsistence level of more than 2000 Sk (U.S. \$50) per month per person.
90. Radicova, I., *Social and Living Conditions in a Slovak Roma Settlement*.
91. CESCR, *General Comment 4*, "The right to adequate housing," 13 December 1991, E/1992/23, par. 10.
92. Ibid, par. 8(b).
93. "States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement [the right to an adequate standard of living] and shall in case of need provide material assistance and support programmes, particularly with regard to ... housing." CRC, art. 27.3.

94. "States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure ... that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: . . . (h) To enjoy adequate living conditions, particularly in relation to housing, ... and water supply ..." CEDAW, art. 14.2.
95. "In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: . . . (e) economic, social and cultural rights in particular: . . . (iii) The right to housing." ICERD, art. 5(e)(iii).
96. "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." ICESCR, art. 11.
97. Kosice Municipal Council, Resolution No. 55, from April 1995.
98. Council of Europe Newsletter, "Activities on Roma Gypsies," No. 4, Strasbourg, 25 April 1996.
99. "Municipal officials told [the] delegation . . . that a major impetus for the relocation program was that non-Roma were complaining about the Roma living in the city center, saying: "If you don't take them away, there will be problems. . . . According to city officials, these Roma not only created problems in the eyes of non-Roma residents, but Roma children on the street of the old town center, were, they believed, a deterrent to tourism." OSCE, *Report on the Situation of Roma and Sinti in the OSCE Area*, 102.
100. According to this report, Kosice officials reasoned that transferring Roma to Lunik IX would enable them to "live according to their beliefs and help their return to their 'natural way of life.'" Slovak Helsinki Committee Project, *Shortened Version of Reports from Fact-finding Missions to Various Regions of Slovakia Conducted in 1998*, p. 4.
101. Kosice officials told Council of Europe representatives that, in 1995, when the Lunik IX re-housing project was initiated, 70 percent of the inhabitants were already Roma. *Council of Europe Newsletter*, "Activities on Roma Gypsies," no. 4, Strasbourg, 15 January 1996. A 1996 UNHCR report mentions that there were 2000 Roma living in Lunik IX. See UNHCR, *Mission to the Eastern Slovak Roma Settlements, 21-24 April 1996*.
102. Good Romani Fairy Kesaj Foundation, "The Consequences of Resolution 55/95 for the Inhabitants of Lunik IX, Kosice," *White Book*, 2000, 38.
103. UK Refugee Council, 37.
104. Good Romani Fairy Kesaj Foundation, "The Consequences of Resolution 55/95 for the Inhabitants of Lunik IX, Kosice," *White Book* 2000, 38.
105. ECRI, *Second Report*, par. 35-36.
106. OSCE, *Report on the Situation of Roma and Sinti in the OSCE Area*, 102-103.
107. Slovak Helsinki Committee, "Report on Human Rights Situation in Slovakia '98," *Monitoring Minority Rights* (November-December 1998), no. 2: 30.
108. Young, J. *UNHCR Guidelines relating to the Eligibility of Slovak Roma Asylum Seekers* (February 1998): par. 2.1.4.
109. Removing Romani families from flats in downtown areas is often presented as an esthetic measure, an architectural effort to rebuilt city centers. See also: Slovak Helsinki Committee, "Report on Human Rights Situation in Slovakia '98," *Monitoring Minority Rights*, 30.
110. Interview with Peter Pompa.
111. UNDP, "The Romanies in Slovakia" in *National Human Development Report - Slovakia 1998*, 72.
112. *Holobyty* is the word used to designate substandard housing inhabited mainly by Roma in the Czech Republic. For a description of the phenomenon, see Zoon, I., *On the Margins: Roma and Public Services in Romania, Bulgaria, and Macedonia* (New York: Open Society Institute, 2001): 178-181.
113. Romani inhabitants affected by these practices are vigorously protesting the creation of even more ghettos. See Slovak Helsinki Committee, "Report on Human Rights Situation in Slovakia '98" in *Monitoring Minority Rights*, 30.
114. Slovak Helsinki Committee Project, *Shortened Version of Reports from Fact-finding Missions to Various Regions of Slovakia Conducted in 1998*, 7.
115. *Ibid.*, 10.
116. *Ibid.*, 4.
117. Interview with Jolana Nather.

118. Klara Orgovanova, director of Inforoma Foundation, as cited by Danish Immigration Service, *Report on Fact-Finding Mission to the Czech Republic and Slovakia - Situation of the Roma Minority - 1 March to 11 March 1999.*"
119. Nalepkovo Territorial Planning, p. 24, as cited by Krajcovicova, 36.
120. "Project of the Solution to the Gypsies' Housing Problem in Nalepkovo," *Verejna sprava* (Public Administration Magazine) (1995): 15.
121. "Document of the Municipality: Information on the Solution to the Gypsy Problems in the Municipality of Nalepkovo," as cited by Krajcovicova, 37.
122. Government of the Slovak Republic, "The Elaboration of the Strategy of the Government for Addressing Problems of the Roma National Minority into a Package of Concrete Measures for year 2000 - Stage II," Governmental Resolution No. 294/2000 (3 May 2000): 30.
123. *Ibid.*, 31.

Recommendations

1. The Council Directive 2000/43/EC of 29 June 2000 on the implementation of the principle of equal treatment between persons irrespective of racial or ethnic origin, *Official Journal of the Communities*, Series L 18 (19 July 2000): 22.



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