

TABLE OF CONTENT

Table of contents

Editorial | *Jarmila Lajčáková* 1

Minorities and Their Rights Fully at New Administration's Mercy | *Jarmila Lajčáková* 1

P. Pollák: Representation of Roma in Parliament Benefits the Entire Country | *Tina Gažovičová*.... 2

Primary School in Šarišské Michaľany: Accepting Segregation vs. Desegregating | *Jarmila Lajčáková*..... 4

Will "New Data" from the WB and UNDP Improve Effectiveness of Social Policy in Slovakia? | *Eva Saganová*..... 7

Strategy of Roma Integration Is Not Ideal But Offers Space for Change | *Jarmila Lajčáková* ... 8

Are measures aimed at improving education of Romani children inclusive enough? A summary of survey findings | *Tina Gažovičová, Elena Gallová Kriglerová, Jana Kadlečíková, Jarmila Lajčáková* 10

Census Results Confirm Assumed Assimilation and Stigmatization Trends | *Alena Chudžíková*..... 12

How Slovakia Progressed in Integration of Foreigners in 2011? | *Alena Chudžíková* 14

First Months of Enforcing New Alien Residence Act Revealed Deficiencies | *Miroslava Mittelmannová* 16

EDITORIAL

BY JARMILA LAJČÁKOVÁ

Early parliamentary elections in March 2012 brought a truly historic landmark as Roma Peter Pollák was among candidates elected to the National Council of the Slovak Republic; it was the first time in the modern history of independent Slovakia that a member of the Romani national minority was elected to the national assembly. This issue of *Minority Policy in Slovakia* brings you an interview with MP Pollák in which he argues it is necessary to listen to the voice of the Roma when seeking solutions to problems plaguing this minority. The mandate of Member of Parliament provides a certain, though not unlimited, opportunity to participate in shaping (among others) the official minority policy as an equal partner. We believe that Mr. Pollák's election is extremely important to the desirable shift from perceiving the Roma as a problem to respecting them as partners; we also address this shift in an article analyzing the recently adopted government strategy of Roma integration. According to the findings of a CVEK survey that ex-

MINORITIES AND THEIR RIGHTS FULLY AT NEW ADMINISTRATION'S MERCY

BY JARMILA LAJČÁKOVÁ

When evaluating minority policy developments over the previous year, we praised especially measures aimed at improving the standard of minorities' language rights adopted by the Office of Deputy Prime Minister for Human Rights, National Minorities and Gender Equality. Important was also implementation of the right of national minorities to participate in decision-making on matters that concern them, particularly through establishing the Committee for National Minorities and Ethnic Groups, which continues to be the only body of minority participation in Slovakia.

REDUCING THE STANDARD OF MINORITY RIGHTS' PROTECTION CAME FAR TOO EARLY

Unfortunately, one of the very first measures adopted by the new single-party government was the actual elimination of this organ as a direct result of the failure to fill the post of deputy prime minister responsible for the human and minority rights agenda. The Committee falls under the Government Council for Human Rights, National Minorities and Gender Equality that is convened and chaired by the said vice-premier.

Not only did SMER-SD refuse to fill the post but it announced plans to abolish it altogether by the means of amending the Competence Act. For the sake of reminder, we would like to point out that the post of deputy prime minister along with the Committee for National Minorities and Ethnic Groups and the Office of Government Plenipotentiary for Romani Communities are the only institutions through which the Slovak Republic fulfils its international commitments ensuing from Article 15 of the *Framework Convention for the Protection of National Minorities*.¹ Despite declared intentions to preserve the *status quo* in the field of minority rights' protection, SMER-SD significantly curtailed them in early days of its tenure. Dividing the agenda of human and minority rights among several ministries that are ill-prepared to handle it, unclear institutional structure and the publicized ambition to move the Office of Government Plenipotentiary for Romani Communities from the capital Bratislava to East Slovakia indicate that minority policy will not be too high on the new administration's priority list.

For the sake of objectiveness, one should note that most praiseworthy achievements of the previous administration in this area should not be attributed to a concerted effort by ruling parties but to a handful of enthusiasts who worked (mostly) at the Slovak Government's Office. Also, let us point out that as far as tackling the urgent problem of Romani exclusion goes, the previous administration failed to adopt a single systemic measure that would be able to bring about a long-term change. The only policy document was rather extensive and virtually toothless *Strategy of Roma Integration until 2020* that was not initiated by the previous administration but was adopted to please the European Commission. The fact that the standard is set alarmingly low in this area should by no means justify generally repressive measures in the field of social policy (e.g. further reduction of parental allowance) or education (e.g. boarding schools for Romani children).

WHAT SHOULD THE INCUMBENT ADMINISTRATION'S PRIORITIES BE FOR THE NEXT FOUR YEARS?

Despite its rather unfortunate start in office, it is our earnest belief that the incumbent Robert Fico administration will not follow in the footsteps of its agenda from the period of 2006 – 2010. Our

1 Article 15 of the *Framework Convention for the Protection of National Minorities* guarantees participation of members of national minorities on the cultural, social and economic life and public affairs, particularly those that concern them. For particulars of this right, please see Commentary No.2 on effective participation of members of national minorities on the cultural, social and economic life and public affairs adopted on February 27, 2008, by the Advisory Committee for the *Framework Convention for the Protection of National Minorities*.

amined inclusiveness of tools aimed at improving education of Romani children, this shift is apparently the key to success in this area.

The most recent parliamentary elections also marked another landmark: for the first time since November 1989, Slovakia will be ruled by a single-party government led by Robert Fico. During his first tenure between 2006 and 2010, the rights of national and religious minorities as well as those of immigrants were significantly curtailed. The initial days of his second administration brought relatively inconspicuous yet substantial steps toward limiting the existing scope of minority rights. Despite this rather unfortunate start, SMER-SD still has four years to improve its reputation that was seriously blemished by the four years of government cooperation with the far-right nationalists. SMER-SD verbally subscribes to social democratic values; however, should it aim to turn Slovakia into a modern social democratic country that respects the rights of all without distinction, it must be prepared to listen to the voice of minorities and non-governmental organizations.

I wish you pleasant reading. ■

>> MINORITIES AND THEIR RIGHTS FULLY AT NEW ADMINISTRATION'S MERCY

best advice in the field of minority policy in general and Romani policy in particular is as follows: there is no need to try to invent the wheel. Besides continuing in the successfully launched process of institutional changes at the Slovak Government's Office, it should abolish all repressive anti-minority measures passed by the first Fico administration. In this respect, the anti-immigration amendment to the Citizenship Act from 2007² and particularly the amendment to the same law from 2010 aimed primarily against ethnic Hungarians³ are most in need of amending; the same goes for parts of the still valid amendment to State Language Act from 2007.⁴ Speaking of the latter law, it would be worth discussing whether Slovakia needs such a law at all.

Instead of the apparently expedient ethnic approach to the Roma championed by the first Fico administration between 2006 and 2010, the second Fico administration should at least try to follow in the footsteps of the complex development approach to Romani communities introduced toward the end of the second Mikuláš Dzurinda administration's tenure. At the same time, it should put some teeth into the *Strategy of Roma Integration until 2020* in order to make it a true public policy tool as opposed to a theoretical declaration.

We would also appreciate if the new government acknowledged the problem of discrimination against religious minorities. That would require, most of all, amending the legislation regulating registration of churches and religious communities that was also tightened by the first Robert Fico administration in 2007.⁵ It is our conviction that the currently valid law's registration requirements that are impossible to comply with discriminate against smaller religious communities.

Apparently, no political party that has ruled Slovakia since November 1989 concentrated as much power on its own as SMER-SD did after the most recent elections. Since power is a double-edged blade, this may herald either a strongly positive or a deplorably negative outlook for the country's minority policy. SMER-SD advertises itself as a standard European social-democratic party. Therefore, issues such as implementation of human rights, protection of minorities and policy of justice should be among its top priorities. So far, though, adopted measures and announced ambitions of the new government do not seem to confirm it. ■

2 Law No. 344/2007 that Alters and Amends Law No. 40/1993 on Citizenship of the Slovak Republic, as amended.

3 Law No. 250/2010 that Alters and Amends Law No. 40/1993 on Citizenship of the Slovak Republic, as amended.

4 Law No. 318/2009 that Alters and Amends Law No. 270/1995 on State Language of the Slovak Republic, as amended.

5 Law No. 201/2007 that Alters and Amends Law No. 308/1991 on the Freedom of Worship and the Status of Churches and Religious Communities.



P. POLLÁK: REPRESENTATION OF ROMA IN PARLIAMENT BENEFITS THE ENTIRE COUNTRY

AN INTERVIEW BY TINA GAŽOVIČOVÁ

Peter Pollák, PhD., is the first Roma to be elected to the National Council of the Slovak Republic since the country became independent in 1993. In the most recent parliamentary elections in March 2012 he was elected from the ticket of Ordinary People and Independent Personalities (OĽaNO). In an interview for *Minority Policy in Slovakia* he spoke of his journey to politics, of measures and argumentation in tackling Romani problems in Slovakia and partly of his future plans in the new position.

You studied social fieldwork and began to work as a social fieldworker. At the same time, you work as a university pedagogue. How did you begin to pursue a political career and why?

I am primarily a Romani activist who has tried for many years to get involved in tackling Romani problems. I graduated from social fieldwork studies and subsequently received an offer to teach so I seized the opportunity immediately. Everybody who worked within the third sector one way or another knows that it generates a lot of good ideas and examples it offers to the system, which then refuses to embrace them. This was the first reason why I decided to enter the world of politics. Another reason was that neither we the Roma nor those who truly want to solve Romani problems could ever rely on our representative in national politics.

This was not your first attempt to get elected to a political post. What were in your opinion the main reasons why you succeeded in the most recent elections?

I ran for election a total of four times, including two attempts in regional elections. The first time it was in 2005 when I ran for the seat in the Košice regional parliament as an independent candidate and became the first substitute. The second time it was in 2009 and I came some 200 votes short to clinch a seat in the Košice regional parliament. The third time

I ran for the national assembly in 2010 on the ticket of Most-Híd and I received a similar number of votes as in the 2009 regional elections. The most recent campaign for OĽaNO was conceived completely differently and carried out more professionally. We defined our target groups of non-Roma and integrated Roma. In these elections we completely avoided campaigning in Romani settlements. That was part of the reason why we received the highest number of votes for a Romani candidate running for the national assembly in the history of Slovakia. At the same time, it is true that if I hadn't been seeded to an electable eighth place I wouldn't have made it to parliament. I was about 400 preferential votes short to improve my position on the ticket. I got elected thanks to Igor Matovič who was the first political leader in Slovakia's history to seed a Roma on an electable place. He takes a big part of the credit for the fact that Slovakia has a Roma in the national parliament today.

You became the first Roma to clinch a seat in Slovakia's national assembly since 1990. Why do you think it is important there are Romani representatives in Slovakia?

Every sizeable population group in Slovakia should be represented in parliament so that its voice is heard. The fact that the Roma are represented in parliament today is good not only for the Roma themselves but for entire Slovakia. If we manage to solve the so-called Roma issue, it will not be beneficial solely to the Roma but to the entire country. I think that every responsible politician should see the issue this way. If we manage to move tackling the problems of the Roma just one step forward, it will be a step taken by Slovakia, not only by the Roma. If we help employ the Roma, they will not depend on the social security system, their employers will pay taxes and contributions, which will automatically increase state budget income and reduce its expenditures. I believe many people who voted for me thought along these lines and that was why I gained their trust.

During the campaign you appeared on billboards carrying the slogan of "Decent Roma Deserve Respect". Who in your opinion are the "decent Roma"?

To me the slogan means that pigeonholing all Roma as parasites is nonsense. When the Roma read the message, whether they hailed from settlements or from integrated communities, they all said: "We're decent, we're not lewd". Of course, they were able to identify those indecent ones because, like in any other population group in Slovakia, there are lewd people to be found among the Roma as well. The difference between indecent people from Romani communities and from non-Romani ones is that in the latter these people have names while those from Romani communities are simply 'Gypsies'. Naturally, this slogan was targeting primarily the Roma but also non-Roma. We say that all those who are decent deserve respect and all those who do anything wrong deserve to be locked up behind bars. Then we may ask why there are indecent people in Romani communities, why there is a higher crime rate and other negative phenomena. These negative phenomena have nothing to do with ethnicity but are a direct result of poverty. Poverty has its hallmarks regardless of whether the person is a Roma or an American. As long as the community is poor, we may expect the crime rate to go up and the number of children in families to increase. Those are the hallmarks of poverty that do not ensue from ethnicity but from poverty. This is the message I will try to convey in parliament.

The long-term problem in Slovakia is that most policies concerning the Roma are "about them without them". How do you perceive the chances of the Roma and Romani associations for political participation in Slovakia?

They will have what the majority offers to them. Of course, the Roma must be prepared to enter politics; they must be erudite, qualified and prepared, not only professionally but also politically. We the Roma lack the political skills that are peculiar to majority politicians. We are usually unable to behave politically, negotiate politically. We must have something to offer and there must be someone to accept and utilize our offer. I mean this totally seriously and I must say we have not found a politician that would be more responsible to Slovakia and to Romani problems than Igor Matovič, regardless of his motivation. Many political parties regularly place Roma on their candidates' lists. I don't know whether they mean it honestly or what is their actual agenda. But the truth remains that they

seed Romani candidates to non-electable places. Perhaps they fear that if they placed a Roma too high on their candidates' list they might lose a large part of their majority voters. I can serve a classic example myself; in the 2010 elections I was number forty on the candidates' list of Most-Híd. I believe that this is bound to change in the future and it is one of my ambitions in parliament: to give other political parties a reason to place Roma on their candidates' lists.

You ran on the candidates' list of *Ordinary People and Independent Personalities*. In an interview for the Romani Press Agency shortly before the elections, you emphasized that you would like to remain independent. In the meantime you have been elected and sworn as a member of parliament. How do you perceive your position now?

Our club is not a traditional parliamentary caucus. It consists of independent personalities and four original members of the Ordinary People movement. Our agreement is that any member who takes legislative initiative and wants to present it to the assembly will first seek support for the proposal within the club. If other members do not identify themselves with the proposal, the one member can go ahead and propose it as his personal initiative. It is understood that no one shall be expelled from the club for submitting a proposal others do not agree with. In this sense our independence is guaranteed. The club will recommend its members to vote in a certain pattern; however, these recommendations shall not be binding and all members shall be free to vote in line with their conscience.

Will you try to convince your colleagues to support your proposals?

In order to put anything through in parliament, I need to convince other people. Therefore I consider it very important to convince all my colleagues from the club to stand behind my proposal so that it is not supported only by Peter Pollák but by the whole club.

What arguments do you intend to use in drumming up support for your proposals?

During the campaign we tried to address a sizeable category of majority voters with arguments that revolved around effective allocation of public funds. We said that solving problems of the Roma will benefit whole Slovakia. For instance, we pour double the money into an average special school than to an average regular school although we know that its graduates stand no chance to go farther than a bricklayer's helper at best; they are bound to fail on the labour market and depend on the social security system for the rest of their lives. This argument was well received by majority voters. Previously, we used an argument that special schools were wrong for children because they ruined their whole lives. As soon as we used the economic argument, people began to listen and said: "You're right! Something should be done about this!" I want to use similar arguments projected into economic figures against boarding schools because these schools are extremely costly. Of course, I intend to say the rest too, i.e. that it has been tried, that it is wrong and that we should avoid repeating bad solutions before we have even tried the good ones. We live in the time when everything must be projected into numbers, especially business figures; it is apparently this type of arguments people tend to listen to nowadays. I intend to use arguments that have been successfully tested during the campaign and have proven to work.

In Slovakia, the issue of Romani children's education is rather controversial in many respects. Several months ago, a district court in Prešov issued a precedential verdict that qualified placing Romani children into separate classes as illegal segregation. What is your position on the verdict?

Those who understand problems of the Roma have awaited a similar verdict for a long time. It will be extremely difficult to integrate Romani pupils into traditional classes but it is the utmost time that we gave it a try. This problem has grown over our heads. If anyone thinks that any kind of segregation is a way forward, they are wrong. If anyone thinks that building a wall will keep the so-called Roma issue out of sight, they are wrong as well. The only way ahead is integration, increasing the living standard of the Roma, incorporating them into all walks of life. That is the path to helping not only the Roma but the entire country. The people must begin to see the problem this way. I realize that those who live in the vicinity of Romani settlements struggle with extreme difficulties.

But the people must realize that negative behaviour of the Roma is not the result of their ethnicity but a direct consequence of their poverty. All poor people tend to behave similarly. All previous administrations have tackled the consequences of poverty as opposed to their causes. A perfect example is enforcing police patrols in Romani settlements or introducing e-pay cards to the system of disbursing welfare benefits. Those are not real solutions but mere squandering of public funds.

Exactly, many people feel that the volume of public funds channelled to projects to help the Roma has become unacceptable...

Indeed, this money has not been allocated effectively. A lot of funds that have been and continue to be pumped into tackling Romani problems have not produced the desired progress within Romani communities. Many projects are implemented to satisfy the needs of those who apply for the funds or submit the projects but not those whom the funds should help in the first place, i.e. the Roma. The so-called Romani projects often include projects that have no impact on the Roma whatsoever, for instance refurbishing the local fire station, building a bicycle trail or renovating the square because the Roma tread on its pavement. Such a non-sensical way of squandering public funds unnecessarily irritates the entire society. I am not saying that we don't need refurbished fire stations but we must not view them as Romani projects just because the firemen extinguish fire in the local Romani settlement every now and then. In order to qualify any project as Romani, all applicants for non-returnable financial contributions need to do is tick the box on the application saying that there are Roma living in the municipality. *That* is unacceptable.

What activities are you planning to pursue during this electoral term?

In parliament I intend to focus particularly on Romani problems because I am most familiar with it. I have put together a group of people who have been actively tackling Romani problems in the long term. Of course, I will be glad to consult my initiatives with other insiders and I am looking forward to their comments and proposals. We have already had one meeting of the group and we will try to expand it. I intend to collect ideas that could be subsequently worked into a concrete bill and then present it to the assembly. By the end of this year I would like to

draft at least two legislative proposals, one in the field of education and one focusing on the social security system; but I would prefer not to speak of concrete measures just yet.

How would you sum up your approach to tackling Romani problems?

This issue requires great attention, not only in terms of declarations but in terms of concrete measures. Romani problems must become Slovakia's priority and people must start to see that solving these problems will not only help the Roma but whole Slovakia as well. If we manage to convey this message to as many people as possible, we shall set on the right path. Unless people understand this message, any program that is launched shall be designed incorrectly. Slovakia may only thrive if Romani problems are tackled with responsibility, not with populism. ■



PRIMARY SCHOOL IN ŠARIŠSKÉ MICHAĽANY: ACCEPTING SEGREGATION VS. DESEGREGATING

BY JARMILA LAJČÁKOVÁ

One of the most serious practices to violate minority and human rights in Slovakia is segregation of Romani children within education system that may take on many different forms. Perhaps the most brutal of them is placing Romani children from deprived communities into special schools and special classes as it keeps them within a parallel education system that is not equivalent to the standard education system. Other equally horrid practices include placing Romani children into segregated classes, floors, buildings, refectories and playgrounds within the standard education system or seating Romani children at desks in the back of the classroom so that they do not hinder teachers in educating their non-Romani classmates.

STRATEGIC LITIGATION CONFIRMED VIOLATION OF HUMAN RIGHTS SLOVAKIA HAS LONG DENIED

Such practices were outlawed already in 2004 by Antidiscrimination Act. Yet, government institutions that are responsible for implementing the law, particularly the Ministry of Education, seem unable to enforce it in practice. Quite the contrary, government in the long term denies existence of segregation within the country's education system.¹ The policy

1 Please see the Slovak Government Resolution No. UV-32346/2011 of

tools that were designed to improve Romani children's access to education, for instance zero grades that have been in place for two decades, *de facto* support segregation of children from the very beginning of their school attendance.²

Strategic litigation in the case of the Center for Civil and Human Rights (POLP) versus the Primary school with kindergarten in Šarišské Michaľany was extremely important in that POLP strove to use judicial help to catalyze the process of social

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October 5, 2011, regarding a document submitted by the Ministry of Foreign Affairs, which states that of 91 recommendations delivered in May 2009, nine were rejected or viewed as irrelevant by the Slovak Republic. The rejected recommendations included calls to adopt legislative and practical measures aimed at eliminating discrimination against Romani children within education system.

2 Please see an article by Tina Gažovičová et al. in this edition of *Minority Policy in Slovakia*.

change. Its endeavour was helped by the recent introduction of the institution of class action, which gave civic associations the right to challenge segregationist practices in court. The problem is that discrimination victims find access to justice hampered due to a variety of financial and social reasons. Even if a civic association that specializes in protection of discrimination victims offers legal assistance to Romani parents, they have every reason to fear that bringing an action against the school will have negative effects on their children who attend the school.

Before the Prešov District Court, POLP challenged the long-term existence of special segregated classes at the Primary school with kindergarten in Šarišské Michaľany that are attended exclusively by Romani children.³ According to testimonies given by teachers, the school organized the education process in order to prevent practical contact between Romani and non-Romani children, even during breaks and leisure time.

The school advocated the existence of special classes and continues to do so after the court issued its verdict. School officials argued that the main reason for segregation was not children's ethnic origin but their social deprivation; in order to overcome it, special classes were established to provide "individual approach to children from socially disadvantaged environment who encounter significant problems coping with their schoolwork".⁴ School officials also reasoned that this way they tried to make sure that "Romani children do not feel handicapped in the teaching process by the knowledge that other children have better results than themselves".⁵ The school even tried to justify the segregation by approvals from Romani parents who had allegedly agreed that their children would be educated according to valid curricula but in segregated classes.

SCHOOLING ACT MUST NOT PROVIDE EXCUSE FOR SEGREGATION

In its defence, the school also cited Schooling Act provision that entitles schools to educate children while applying specific forms and

"In its defence, the school also cited Schooling Act provision that entitles schools to educate children while applying specific forms and methods that correspond to these children's needs. In the verdict the judge reasoned that interpretation of any law must not provide excuse for segregation and that Schooling Act must not be interpreted contrary to Antidiscrimination Act, Constitution of the Slovak Republic or international conventions on human rights protection."

methods that correspond to these children's needs. But the case judge refused to accept this argument, emphasizing that the school had created purely Romani classes regardless of children's school results and stating that "the defendant must not apply specific methods and forms of educating pupils from socially disadvantaged environment in a way that contradicts the valid and international legislation for the protection of human rights."⁶

In the verdict the judge reasoned that interpretation of any law must not provide excuse for segregation and that Schooling Act must not be

interpreted contrary to Antidiscrimination Act, Constitution of the Slovak Republic or international conventions on human rights protection. According to the judge, the only reason for placing Romani children into segregated classes was their Romani origin as they were placed there regardless of whether they hailed from social-

ly disadvantaged environment or not. The judge viewed parents' informed approvals irrelevant since they were not made freely. "The parents consented to the said method of education because they had gotten used to the situation and because they feared bullying and humiliating [of their children] in mixed classes."⁷

"The school resigned to its role in education process because it preferred illegal segregated education to development of inclusive education."

According to the judge, the school resigned to its role in education process because it preferred illegal segregated education to development of inclusive education. She reasoned that segregation cannot be considered a so-called temporary equalization measure introduced to eliminate a certain handicap. "It is obvious that their measures are not of equalization nature as they would not allow for elimination of deficits caused by possible social deprivation; on the contrary, their sole purpose is separation of non-Romani children from Romani ones," she argued.⁸ The judge also noticed the fact that in the long term, not a single pupil has been transferred from a Romani class into a non-Romani one and that the school did not try to hide the fact that the main reason for segregation was fear of the outflow of non-Romani pupils. In the end, the judge concluded that the school had violated Antidiscrimination Act and ordered it to remedy the unlawful state of affairs within 30 days of the verdict taking effect.

SCHOOL'S CHANCES TO DEFEND SEGREGATION BEFORE APPELLATE COURT SHOULD NEAR ZERO

The defendant appealed the decision before the regional court. According to information brought by the press, the school in its appeal argued that it did not discriminate against Romani children and that the segregated classes had not been created on the ethnic basis but merely to provide different methods and pace of learning to children from disadvantaged environment.⁹ It seems that the school based its appeal on Article 107 of Schooling Act, which in Paragraph 3 provides for creation of individual conditions for children from socially disadvantaged environment through adjusting organization of upbringing and education, adjusting the environment where upbringing and education takes place and applying specific methods and forms of upbringing and education.¹⁰

"Defending the case of Oršuš et al vs. Croatia seems more difficult than in the case of school in Šarišské Michaľany as temporary measures designed to overcome the language barrier might be viewed as justified to a certain degree; however, it is highly improbable that the ECHR would view Romani children's social deprivation and outflow of non-Romani children from the school as acceptable arguments in favour of different treatment of Romani pupils."

Although it is difficult to predict the position of the regional appellate court, it is almost certain that the school's argumentation would stand very thin chances before the European Court of Human Rights (ECHR).¹¹ The facts of the case of *Oršuš et al vs. Croatia* that was adjudicated by the ECHR two years ago

3 Center for Civil and Human Rights vs. Primary school with kindergarten in Šarišské Michaľany, Verdict No. 25 C 133/10-229 of December 5, 2011.

4 Ibid, p.2.

5 Ibid, p.10.

6 Ibid, p.9.

7 Ibid, p.10.

8 Ibid, p.10.

9 "Šarišské Michaľany nechcú triedy zmiešať" [Šarišské Michaľany Refuse to Mix Classes], *Korzar, Sme*, January 23, 2012.

10 Article 107 Paragraph 3 Letters b-d of the Law No. 245/2008 on Upbringing and Education (Schooling Act) that Alters and Amends Certain Laws.

11 In the case of class action it is impossible to appeal to the European Court of Human Rights.

very much resemble those of the case from Šarišské Michaľany.¹² In the case, complainants Oršuš et al took action against primary schools in Croatia for placing Romani children into separate classes within the mainstream education system on account of their insufficient command of Croatian. Like the school in Šarišské Michaľany, the Croatian schools argued they had been forced to adjust their teaching methods. Like the Prešov district court, the ECHR noticed that there had been no method in place to monitor transferring of Romani children into non-Romani classes and that the children were segregated throughout all primary schools grades. Also, the ECHR pointed out that even though the schools had not directly placed children into special classes based on the language criterion, the result of the practice was creation of classes made up solely based on pupils' ethnic origin, which the court qualified as unlawful indirect discrimination.

Defending the case of *Oršuš et al vs. Croatia* seems more difficult than in the case of school in Šarišské Michaľany as temporary measures designed to overcome the language barrier might be viewed as justified to a certain degree; however, it is highly improbable that the ECHR would view Romani children's social deprivation and outflow of non-Romani children from the school as acceptable arguments in favour of different treatment of Romani pupils.

THE QUESTION IS NOT WHETHER TO ACCEPT SEGREGATION BUT HOW TO DESEGREGATE

It is only a matter of time when schools that segregate Romani children like the one in Šarišské Michaľany begin to lose human rights

"The schools need assistance from central government as well as self-governance institutions, in eliminating systemic barriers to introducing inclusive education."

litigations and are ordered to desegregate by courts of justice. That is why I believe that the public debate should not focus on whether segregation is acceptable but on how to desegregate.

It is obvious that mixing up children in classes will not be enough on its own. It is equally obvious that the burden of desegregation must not be left solely up to schools. It is inevitable to tackle exclusion of Romani communities in a more complex manner that includes developing social housing, working with Romani parents, creating job opportunities for them, intensifying community fieldwork and targeting provision of medical care.

But the schools need assistance from central government as well as self-governance institutions, not only in already mentioned areas but also in eliminating systemic barriers to introducing inclusive education. These barriers include challenging curricula, rampant bureaucracy or practical impossibility to reduce the average number of children in classes substantially. Also, central government organs must remove the mechanisms that force primary schools to compete with each other for best pupils through comparative monitors and tests that measure memorized information as opposed to knowledge and the ability to apply it critically. Government in cooperation with universities should help primary schools by preparing skilled pedagogues who are able to educate children with different mental capacities in an inclusive manner.

This is not to say that schools should not play the key role in the process of desegregation. Our survey examining tools aimed at improving integration of Romani children revealed that if the schools truly want, they are able to apply inclusive elements to education by themselves, even though their possibilities are limited. Driven purely by their enthusiasm and often despite low support from the system, many individual teachers have managed to create relaxed and friendly atmosphere that made Romani children feel comfortable at school.

12 Oršuš et al vs. Croatia, Case No. 15766/03 of March 16, 2010.

The basic prerequisite to inclusive education is changing the angle from which Romani children are perceived. For the time being, they are not considered individual human beings who have their needs just like other children. The schools tend to view them rather as a 'problem' that needs to be solved and that might even threaten the school's proper functioning and image. Even as we speak the pedagogues have at their disposal certain tools that may help change this school philosophy. For instance, the cross-sectional character of multicultural education provides space to create positive social climate during classes, in classrooms, in schools and within entire communi-

ties. One of the schools that took part in our survey viewed multicultural education as a vehicle to activities that interconnect Romani and non-Romani children from separate communities. Using assistant teachers has an immense potential in developing individual approach to children according to their needs. Sensitive utilization of Romani language and culture (e.g. lessons from Romani history or learning about outstanding Romani personalities) builds respect for the Roma at schools and simultaneously creates atmosphere in which no one is forced to hide their identity.

There are many other successfully tested methods (e.g. sensitive introduction of group or peer tuition) that support social learning among children, create positive examples, encourage cooperation, reduce prejudices based on own experience and thus help all children feel comfortable and have an equal chance to succeed at school.¹³ I believe that placing children into classes should reflect their natural diversity, which is best and most justly attained by random selection. The current education system is extremely selective; from early childhood, children are divided according to their capacities presumed by schools into excellent (A classes), average (B classes) and below-average (C, D and E classes). Our survey confirmed what people from the domain of social science have known for a long time: every single child is gifted in one way or another. The art of good education is to develop that special gift or skill. Education should at any cost avoid appreciating only certain skills and eliminating those children that do not seem to have them.

Although government officials apparently underestimated the importance of the case of primary school in Šarišské Michaľany,¹⁴ we believe that this case will eventually become the impulse to adopt measures that will help eradicate one of the most serious violations of human and minority rights in Slovakia. ■

"If the schools truly want, they are able to apply inclusive elements to education by themselves, even though their possibilities are limited. The basic prerequisite to inclusive education is changing the angle from which Romani children are perceived. For the time being, they are not considered individual human beings who have their needs just like other children. The schools tend to view them rather as a 'problem' that needs to be solved and that might even threaten the school's proper functioning and image."

13 An excellent overview of successful methods of inclusive education corroborated by research findings may be found in Mitchell, David (2008): *What Really Works in Special and Inclusive Education: Using Evidence-Based Teaching Strategies*. London and New York: Routledge.

14 Please see, for instance, blogs by Jaroslav Ivančo, then state secretary at the Ministry of Education ("Michaľany ako precedens s nechcenými následkami" ["Michaľany as a Precedent with Undesirable Implications"], available at: <http://ivanco.blog.sme.sk/c/286026/Michalany-ako-precedens-s-nechcenymi-nasledkami.html>) or Lucia Nicholsonová, then state secretary at the Ministry of Labour, Social Affairs and Family ("Zákaz segregácie na Slovensku je smiešny" ["Slovakia's Ban on Segregation is Ridiculous"], available at: <http://aktualne.atlas.sk/komentare/lucia-nicholson/zakaz-segregacie-na-slovensku-je-smiesny/>).

WILL “NEW DATA” FROM THE WB AND UNDP IMPROVE EFFECTIVENESS OF SOCIAL POLICY IN SLOVAKIA?

BY EVA SAGANOVÁ

Like in most other European countries, social policy in Slovakia is in dire need of reforms, be it in the field of employment policy, social insurance, old-age pension system or disbursement of social security benefits. The urgency of reforms has become almost ubiquitous. While all administrations seem to be aware of their inevitability, they opt for different concrete policies, especially when it comes to tackling the issue of socially and economically excluded Romani communities. As far as reforming the system of disbursing social security benefits is concerned, there are no limits to imagination: the proposed measures range from reducing family allowance to disbursing material need benefits based on the “merit” principle to making concessions in the field of human rights implementation as it was announced by the country’s

newly-elected prime minister Robert Fico during his recent lecture at one university.¹

“One of the project’s conclusions was refuting the prevailing public opinion that most recipients of material need benefits are large Romani families. Very few large Romani families are currently eligible to receive certain welfare benefits designed for persons in material need; a perfect example is the housing allowance that cannot be disbursed to persons living in illegal homes, which is the case of most Roma.”

The previous administration whose mandate was terminated prematurely had planned to base its social policy reforms on expert analyses and data supplied by experts from the World Bank (WB) and the United Nations Development Program (UNDP).² The Ministry of Labour, Social Affairs and Family (MPSVR) expected a lot of this collaboration with the WB that had been launched in 2011.³ improved performance of the social security system as a whole,

greater effectiveness of financial transfers of social assistance, welfare benefits’ increased motivation to labour, revised structure of material need benefit recipients, coordination in the provision of employment services and, last but not least, scouting potential solutions to social exclusion and concentrated poverty, particularly in marginalized Romani communities.

Shortly before early parliamentary elections, on February 22, 2012, MPSVR organized a conference during which initial findings of the analysis by WB and UNDP experts were presented.⁴ From the very beginning of the conference, the ministry’s State Secretary Lucia Nicholsonová emphasized importance and “groundbreaking” nature of the findings. Since we do not have access to the primary data and therefore cannot sufficiently verify the interpretation value of published data, the following text shall reflect upon the project’s official outputs as presented by WB and UNDP experts.

One of the project’s conclusions was refuting the prevailing public opinion that most recipients of material need benefits are large Romani families. According to WB findings, almost two in three recipients (64%) are childless households, often young people. On the other hand, only 3% of all recipients are families with four or more children. Although this category most likely includes many Roma who are viewed as individuals by government, this finding partly undermines the stereotype that the principal category of welfare benefit recipients is Ro-

mani families with many children, let alone the stereotype that many of them choose to have children solely to collect welfare benefits.

Social assistance should be targeted primarily at population groups that are threatened by poverty (i.e. including the Roma) and eligibility conditions should not be further tightened. Very few large Romani families are currently eligible to receive certain welfare benefits designed for persons in material need that are enacted by Law No. 599/2003 on Assistance in Material Need;⁵ a perfect example is the housing allowance that cannot be disbursed to persons living in illegal homes, which is the case of most Roma. Unfortunately, many politicians still abuse this issue in a most populist fashion and continue to accuse the Roma of abusing welfare benefits. They manage to reproduce this image in close cooperation with the media that often put welfare benefits in the context of abusing them. The simple fact that someone receives welfare benefits does not automatically imply that they are being abused.

Quite paradoxically, even SMER-Social Democracy that won recent early parliamentary elections with the slogan of “People Deserve Security” avoids the discourse on solidarity; on the contrary, it proposed repressive solutions with respect to the Roma shortly after the elections. One should note that Slovakia does not have any welfare benefits that could be dubbed as “Romani benefits”. In other words, all citizens in the law-stipulated social situation are entitled to welfare benefits regardless of their ethnic origin. Therefore, the abuse of social security system by the Roma is based on stereotypical (and most importantly erroneous) interpretations of the social security system.

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Another area examined by WB and UNDP experts was unemployment. Unemployment of the Roma in Slovakia

is one of the highest among all European countries. *According to the study, 54% of all jobless Roma are able to work* (i.e. they are between 18 and 59, they are not prematurely retired, they are not handicapped, they do not undertake any “training” and they do not provide for another person). The main reasons for their joblessness include low education status, which is a direct result of Romani pupils’ segregation in schools, and discrimination on the labour market. *The analysis pointed out that 13% of all annual newcomers to the labour market are Roma with poor education; everything indicates that their proportion will continue to increase.*

These figures clearly indicate that something is wrong. That is why it is important to further inclusive education and fully incorporate Romani pupils into mainstream primary education, not only due to economic reasons (i.e. their participation on the labour market) but especially from the human rights viewpoint (because everybody has the right to education). Speaking of unemployment, the conference vividly discussed the merit principle of disbursing unemployment benefits that was arduously advocated

⁵ Please see http://www.upsvar.sk/socialne-veci-a-rodina/hmotna-nudza/davka-a-prispevky-v-hmotnej-nudz.html?page_id=226

¹ Please see <http://aktualne.atlas.sk/ficove-slova-o-romoch-niektorich-vydesilini-nesetria-kritikou/slovensko/spolocnost/>

² Please see <http://www.employment.gov.sk/socialny-system-a-mrk.html>

³ Please see <http://www.employment.gov.sk/svetova-banka.html>

⁴ Papers from the conference are available at: <http://www.employment.gov.sk/socialny-system-a-mrk.html>

by ministry officials; obviously, they seem to forget that this principle not only fails to tackle the causes of social problems but it also contradicts the

“The conference vividly discussed the merit principle of disbursing unemployment benefits that was arduously advocated by ministry officials; obviously, they seem to forget that this principle not only fails to tackle the causes of social problems but it also contradicts the basic philosophy of social assistance, which says that every person in the state of material need shall be entitled to it. Eligibility conditions to receive material need benefits are already strict enough, which may be documented by the fact that a large proportion of poor citizens are not eligible to collect them.”

basic philosophy of social assistance, which says that every person in the state of material need shall be entitled to it.

Eligibility conditions to receive material need benefits are already strict enough, which may be documented by the fact that a large proportion of poor citizens are not eligible to collect them. The study revealed that only 82% of these benefits’ recipients belong to the poorest one fifth of the country’s population and that only two in five (41%) of the poorest 5% of the population receive material need benefits. Given the currently implemented activation labour projects that are often ineffective, meaningless and do not guarantee participants’ return to the labour market, the concept of across-the-board disbursement of benefits according to the merit principle is unacceptable. The tools of social policy should be primarily targeted at bringing the Roma back to the labour market and especially at improving their education status as opposed to cutting back on welfare benefits.

benefits according to the merit principle is unacceptable. The tools of social policy should be primarily targeted at bringing the Roma back to the labour market and especially at improving their education status as opposed to cutting back on welfare benefits.

Last but not least, WB experts calculated the *financial losses of Romani exclusion which they called “the cost of non-inclusion”*.⁶ As a direct result of excluding the Roma, the country loses 7% of its annual GDP every year. In other words, the losses caused by economic exclusion of the Roma are higher than the investment into their social inclusion; however, this purely economic perspective makes the Roma look like parasites by stating how much they “cost” the state as percentage of its annual GDP. The arguments for including the Roma are not primarily financial but humanistic and ethical; after all, we all have equal rights and no one shall be denied their fundamental human rights. Nevertheless, some people are not responsive to principles of equality and human dignity but are that much more sensitive to categories of economic profit and loss; that is why such calculation of costs may affect their perception of reality.

6 Please see http://www.romadecade.org/the_cost_of_noninclusion_2009

For the sake of objectiveness, one should note that the cabinet made a positive step toward tackling exclusion of the Roma by adopting the *Strategy of the Slovak Republic for Roma Integration until 2020* in January 2012.⁷ The monitoring of integration or inclusion of the Roma is difficult due to non-existence of ethnically sensitive data. That is why several speakers at the conference emphasized the importance of collecting them in the future.

If we sum up the main findings of early analyses, the presented data reveal the contours of looming social problems that have been vaguely sensed before and some of which have been signaled for quite some time. Their added value rests in these problems’ quantification, i.e. numerical expression of social reality, for instance the percentage structure of material need benefit recipients or financial losses resulting from social exclusion of the Roma. These data clearly corroborate the necessity to target social policy measures at population living in poverty as well as young people who face problems finding their place on the labour market. It remains to be seen whether these data are capable of improving effectiveness of social policy measures. After all, the way of carrying out social policy reforms is completely up to the incumbent administration.

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But recent public statements and actions by prime minister of the new administration Robert Fico indicate his ignorance of not only these data but of fundamental human rights in general. This may be demonstrated by his announced intention to abolish the post of deputy prime minister for human rights and national minorities⁸ or his statements about tackling the so-called “Roma issue” by reducing the scope of human rights,⁹ introducing boarding schools for Romani children or nonsensically limiting disbursement of material need benefits to families with a maximum of three children.¹⁰ Unfortunately, it seems rather unrealistic to expect any positive changes in social policy with respect to marginalized Romani communities from the incumbent administration. ■

7 Please see <http://www.romovia.vlada.gov.sk/data/files/8477.pdf>

8 Please see <http://www.sme.sk/c/6321386/ludske-prava-sa-rozstiepia-post-vicepremierra-smer-zrusi.html>

9 Please see <http://aktualne.atlas.sk/ficove-slova-o-romoch-niektorych-vydesili-ini-nesetria-kritikou/slovensko/spolocnost/>

10 Please see <http://aktualne.atlas.sk/ficove-slova-o-romoch-niektorych-vydesili-ini-nesetria-kritikou/slovensko/spolocnost/>

STRATEGY OF ROMA INTEGRATION IS NOT IDEAL BUT OFFERS SPACE FOR CHANGE

BY JARMILA LAJČKOVÁ

“We believe that the incumbent administration will take on the challenge and that the strategy will not become another piece of quite expensive yet forgotten paper.”

The very first policy document adopted in 2012 by the Slovak Government was the *Strategy of the Slovak Republic for Roma Integration until 2020*. The primary initiative in this respect was taken by the

European Commission (EC), which in its communication titled “An EU Framework for National Roma Integration Strategies up to 2020” asked member states to adopt their national strategies by the end of 2011. At

the same time, the EC made it clear that its involvement in tackling the exclusion of Romani communities on the European scale did not rid member states of responsibility for their Romani inhabitants or adoption of inclusive policies. Slovakia’s national strategy is an extensive document, almost 80 pages long. According to its justification report, it was elaborated by the Office of Government Plenipotentiary for Romani Communities in cooperation with the World Bank, the United Nations Development Program (UNDP), the Open Society Foundation, the Association of Slovak Towns and Villages, and a handful of non-governmental organizations.

STRATEGY PROVIDES A MERE FRAMEWORK

Despite its extensiveness, the national strategy provides a mere framework for future policy documents in this area. Its resolutions spelled out just a few concrete tasks, for instance elaboration of action plans pertaining to financial inclusion and communication toward the majority society, monitoring their fulfilment and preparation of action plans in the field of education, housing, health and employment for the period of 2015-2020.

Part and parcel of the national strategy is the *Revised National Action Plan of the Decade of Roma Population's Inclusion for the Period of 2011-2015* that had been adopted already in summer 2011. This means that in the four principal areas (i.e. education, housing, health and employment) binding tasks are those listed in the action plan, not those described in the strategy. For instance, in the strategy the government committed to "gradually eliminating the practice of placing children educated according to variant "A" into special schools and special classes of primary schools and to keeping them within the mainstream education with greater participation of assistant teachers who speak the Romani language".¹ Unfortunately, the action plan fails to spell out any such task and is generally toothless as far as the crucial sector of education is concerned.² For instance, it is completely free of any measures aimed at eliminating various forms of segregation, which is probably the most urgent problem within education system; similarly, there is no word about gradual downsizing of the role of special education or targeted support of inclusive education. In other words, adoption of the strategy did not change a single thing in the scope of concrete tasks in four key areas the cabinet and individual ministries agreed to fulfil in summer 2011.

COMMITMENT TO COLLECTING ETHNICALLY SENSITIVE DATA THE GREATEST IMPROVEMENT

Besides the commitment to continuing in the action plan's fulfilment and adopting a separate action plan for the period of 2015-2020, the strategy

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also spells out the task of monitoring its fulfilment. This task is rather peculiar as the fulfilment of tasks that are supposed to lead to attaining the desired goals is not spelled out as "binding" by the strategy. Consequently, the monitoring is not likely to evaluate the effectiveness of tasks spelled out

by the strategy but is quite likely to reveal at least the scope of discrimination and exclusion of the Romani minority. The thing is that the monitoring process envisages collection of ethnically sensitive data, which must be viewed as progress in Slovakia in 2012 (!). Collection of data will include updating of the Atlas of Romani Communities that was first put together in 2004 and putting it in the context of existing data collected by the government. Collection of ethnically sensitive data is the key not only to adoption of effective and targeted policies; it might also help the victims of indirect discrimination, for instance Romani children that are placed into special schools and classes without proper justification.³

PARTICIPATION OF ROMANI CIVIL SOCIETY SUBJECTS IS CRUCIAL

"An EU Framework for National Roma Integration Strategies up to 2020" places special emphasis on the participation of Romani civil society in preparing, implementing and particularly monitoring of national strate-

- 1 *Stratégia Slovenskej republiky pre integráciu Rómov do roku 2020* [Strategy of the Slovak Republic for Roma Integration until 2020], adopted as Resolution No.1/2012 of January 11, 2012, p.29.
- 2 Please see Lajčáková, J. (2011). Revised National Action Plan to the Decade of Roma Inclusion Threatens to Become Toothless. *Minority Policy in Slovakia*, 3/2011, p.1.
- 3 Please compare to the case of D.H. vs. the Czech Republic, Case No. 57325/00 of November 13, 2007.

gies. The creators of Slovakia's national strategy attempted to get Romani non-governmental organizations involved in the process of its elaboration through a series of consultations. This effort should be commended, especially given the long history of government turning a deaf ear to Romani organizations.

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In this context, I would like to point out that acknowledgement of Romani communities and Romani civil society subjects as equal partners on the local and national level is the key prerequisite to a fundamental change in this area. Here, I am by no means referring to *pro forma* participation of several hand-picked Roma in order to lend legitimacy to government policies. It is absolutely necessary for those who are concerned by the policies to be truly involved in shaping them and for their voice to be truly heard.

This approach requires a change in society's general attitude towards the Romani minority, which for centuries has been perceived as a problem (the so-called Roma issue) that needs "solution". As a result, public policies vis-à-vis the Roma oscillated between two types of solutions, ranging from forced exclusion to forced "civilization" and assimilation. A recent survey carried out by the CVEK examining the tools that should help increase effectiveness of educating Romani children confirmed that this tendency has lingered since 1989. Perhaps the most deplorable example was introduction of zero grades⁴ some 20 years ago. The measure was supposed to tackle the problems Romani children bring from home, mostly due to poverty and inadequate hygiene. The main purpose of this measure was to adapt or "civilize" poor Romani children in order to make them fit the school's majority environment. As a result, the often good-natured and solicitous teachers directly or indirectly labelled Romani children as "problematic and abnormal".

The main consequence of this stigmatization is that Romani children are placed into ethnically segregated classes in higher grades. The additional risk is that stigmatizing Romani children as backward since early childhood may lead to their self-identification with this derogatory image shared by the others. Consequently, their self-perception as inferior easily becomes the strongest tool of their own oppression and deprivation. In other words, their chances to break from the vicious circle of exclusion are reduced not only due to actual discrimination and poverty but especially due to their own feeling of inferiority.⁵

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DE-STIGMATIZATION IS IMPORTANT, THOUGH SLIGHTLY MISCONCEIVED

If government is truly interested in giving the Roma a

- 4 The survey was carried out by the CVEK between November and December 2011 as part of the project titled "Measures to Improve Education of Romani Children – Are They Truly Inclusive?" For further details on survey findings, please see an article by Tina Gažovičová et al. "Are Measures Aimed at Improving Education of Romani Children Inclusive Enough?" in this edition of *Minority Policy in Slovakia*.
- 5 Please see Charles Taylor, "The Politics of Recognition" in Amy Gutman (ed.), *Multiculturalism: Examining the Politics of Recognition* (New Jersey: Princeton University Press, 1994).

chance to participate in finding a way out of social exclusion, it must cease stigmatize them solely as a problem and begin to respect them as equal human beings and partners. For this reason it is worth noticing that de-stigmatization is among principles that lie at the heart of the strategy. The strategy creators view de-stigmatization as a “neutral attitude of public administration officials to discharging their duties and education to tolerance within entire society”.⁶ As much as I appreciate incorporating the principle of de-stigmatization into the document, its interpretation and inter-connection with other principles included in the strategy is unconvincing to say the least.

I believe that this interpretation of de-stigmatization principle may serve as an argument against acknowledging minority rights of the Roma and teaching the Romani language at schools that are both mentioned in the document. I assume that it may even be used as an argument against temporary equalization measures.⁷ These measures’ opponents, particularly the more conservative ones, too often and too flamboyantly argue that such preferential treatment stigmatizes members of the minority. In order to achieve a true improvement in the field of Roma inclusion, it is necessary to do more than the strategy envisages and affirmative action could be the answer. The experience of established western democracies and even some emerging eastern ones (e.g. Romania) shows that adoption of temporary equalization measures is an effective tool to overcome social exclusion of the Roma. Their principal purpose is to help build a viable middle class of the Roma, for instance, through administratively increasing the number of Roma studying at prestigious universities and fields of study. As far as employment goes, a desirable progress might be achieved if government introduced temporary equalization measures in the field of purchasing goods and services through public procurement mechanisms.

6 *Stratégia Slovenskej republiky pre integráciu Rómov do roku 2020*, p.9.

7 It was this argument that lied at the heart of the cabinet’s motion to examine constitutional conformity of temporary equalization measures in 2005. Please see the Constitutional Court Ruling No. US 539/2005 of October 18, 2005.

The principle of de-stigmatization should also be reflected in symbolic acknowledging the Roma and their culture and history as an integral and equal part of Slovakia’s culture and history, which is completely absent from the strategy that focuses primarily on social and economic aspects of coexistence. In the previous edition of *Minority Policy in Slovakia* we addressed the issue of government officially apologizing to and indemnifying Romani women that were forcibly sterilized in the past, which is another cultural issue that deserves special attention.⁸

AN OPPORTUNITY THAT SHOULD BE TAKEN

Although the strategy is not legally binding, there is still a chance to incorporate its objectives into particular action plans for the period of 2015-2020. Also, it is an opportunity for the recently elected administration to amend the revised national action plan so that it reflects the document’s goals more ambitiously. We believe that the ruling party will not pass on the opportunity offered by the strategy and will take it to another level. During the process of interdepartmental debate procedure, non-governmental organizations came up with a great number of proposals that could bring about a positive change. At the same time, the new administration can rely on a comfortable majority in parliament and may easily use it to amend the confusing and practically unusable provisions on temporary equalization measures featured in the currently valid Antidiscrimination Act. With a little support from opposition parties that have these issues in their agenda (e.g. Most-Híd), it might even pass a constitutional amendment that would facilitate adoption of affirmative action measures. We believe that the incumbent administration will take on this challenge and that the strategy will not become another piece of quite expensive yet forgotten paper. ■

8 Lajčáková, J. (2011). Forcible Sterilizations of Romani Women Call for Proper Investigation and Public Condemnation, *Minority Policy in Slovakia*, 4/2011, p.4.

ARE MEASURES AIMED AT IMPROVING EDUCATION OF ROMANI CHILDREN INCLUSIVE ENOUGH?

A SUMMARY OF SURVEY FINDINGS

Within Slovakia’s education system there is a variety of measures aimed at improving education of children with special educational needs, particularly children from marginalized Romani communities. Unfortunately, available data on the overall educational status of the Roma do not seem to indicate any positive change in this area.¹ In recent months, the Centre for the Research of Ethnicity and Culture (CVEK) carried out a research project that set out to examine whether and to what extent are select support measures in line with basic principles of inclusive education? The survey was conceived as a qualitative one and consisted of in-depth interviews and personal observations at ten primary schools located in different regions of Slovakia. The project was financially supported by the Slovak Government’s

1 Filadelfiová, J., Gerbery, D., Škobla, D. (2006). *Správa o životných podmienkach rómskych domácností na Slovensku* [Report on the Living Conditions of Romani Households in Slovakia], Bratislava: UNDP.

TINA GAŽOVIČOVÁ, ELENA GALLOVÁ KRIGLEROVÁ,
JANA KADLEČIKOVÁ, JARMILA LAJČÁKOVÁ

Office as it formed part of its subsidy program titled Support and Protection of Human Rights and Freedoms.

We approached our survey from the theoretical perspective of inclusive education. At the heart of its definition lies a concept that it is possible to educate all children together while applying individual approach. This brings diversity into a classroom, which is beneficial for children’s development and is perceived as an opportunity rather than a threat. Inclusion is a process that is simultaneously aimed at increasing children’s participation and eliminating barriers in education.

Our principal goal was to find out whether existing measures implemented in the framework of inclusive education contribute to respecting specific educational needs of Romani children. In particular, we focused on the following concrete measures: zero grades, assistant teachers, multicultural education, individual integration, Romani language and model of financing.

SURVEY FINDINGS

Zero grades² and assistant teachers³ currently form the ‘backbone’ of most policy measures aimed at equalizing chances of children hailing from marginalized Romani communities. Both tools were experimentally introduced in the 1990s and have been a solid part of education legislation since 2002.

From the viewpoint of schools, these measures are very helpful in education of Romani children. A vast majority of pedagogical employees seems to agree that **zero grades** are indispensable to the effort to equalize the shortcomings Romani children bring from home. According to them, zero grades help ‘normalize’ Romani children to the point they are able to participate in further education process.

Since zero grades are in essence a tool of Romani children’s adaptation into education system, they are unable to support inclusion processes on their own. At the same time, their significant deficiency is that they form part of existing segregationist practices. All examined schools that divide children into separate classrooms use zero grades as the cornerstone of their segregation model. It is an institution specifically designed for children from socially disadvantaged environment; in practice, though, the key of distinction is often a combination of social deprivation and ethnic affiliation. In an optimum situation, zero grades might support the integration process (i.e. physical presence of Romani children at schools), provided of course that they do not become segregated in higher grades; besides, that alone is not sufficient to achieve their inclusion.

Assistant teachers represent a typologically different tool that has a potential to take pupils’ individual needs into account and diversify pedagogical approach to them, which offers great possibilities in terms of creating an inclusive environment at the school. Crucial to the fulfilment of their inclusive function is that they help primarily children as opposed to teachers. Also, they should not be reduced solely to ‘peacekeepers’ but should focus on doing everything that helps children be more effective.

The question of who should be the primary beneficiary of assistant teachers is closely related to the question of whether Romani children should be taught by Romani pedagogues. The fact someone is Roma is by no means sufficient characteristics, let alone pedagogical qualification; however, Romani assistant teachers have a potential to interconnect pupils and their families on the one hand and schools and public institutions on the other. They may also serve an example as, in the words of one teacher and member of an external expert group, “*the Roma are not alone in need of positive Romani examples*”. Romani members of teaching staffs may be very helpful in eliminating social stereotypes and offering positive examples, not only to Romani pupils but also to non-Romani ones, their parents and those non-Romani teachers who have given up hopes that their Romani pupils are capable of attaining higher education.

At the same time, Romani pedagogues (i.e. assistant teachers, teachers, principals) are free to introduce the **Romani language** into education process and school environment.⁴ In survey interviews, the Romani language appeared primarily in the context of overcoming the language barrier encountered by Romani children upon enrolment. “*Certainly,*

had they had a good command of Slovak, their school results would have been much better,” said a school principal from the Prešov region.

At schools where some members of the teaching staff have a good command of Romani, the language is used mostly to help children overcome the initial language barrier upon enrolment. All pedagogues who speak Romani and use the language to teach their pupils speak Slovak and were very happy about their advantage; yet, some of them shared with us their inner feeling that such a method was not completely correct or desirable. Several respondents even spontaneously apologized for applying it, assuming that the authorities might not fully accept it, which may be illustrated by the following quotes: “*Perhaps the inspection would not like to see it all that much,*” said one school principal from the Košice region. “*I never openly use Romani during classes because it is not a language that should be used to communicate in a classroom,*” seconded one Romani assistant from the Bratislava region.

From the viewpoint of inclusive education it is absolutely acceptable, even desirable, that the school helps pupils overcome the language barrier by using their own mother tongue. Sensitive inclusion of the Romani language into the education process could be perceived as a natural form part of multicultural education that was introduced in Slovakia at the beginning of the 2008/2009 academic year as a cross-section subject.

Multicultural education emerged as a critical reaction to the mono-cultural and Europe-centric approach to education. Mono-cultural education produces individuals who perceive the world exclusively from the perspective of their own culture and therefore are unable to accept diversity and other cultural and/or value systems as equal to theirs. In its essence, multicultural education has a strong potential to spark and fuel inclusive processes in schools. Its cross-section character is capable of transforming the education curriculum so that it teaches the children to respect differences between them as something that benefits the entire community. In other words, all children are treated as equal members of the community and are not forced to hide the language or cultural identity they brought from home.

While scouting the schools, our researchers often encountered with respondents’ amazement over questions concerning multicultural education. Many of them were unable to define exactly what should be its purpose. Multicultural education in practice is often based on so-called *positive stereotypes*, i.e. romantic notions of Romani children and the Roma in general as unrestrained musicians and dancers. The problem is that it is generally assumed that *all* Romani children like to sing and dance, that *they do best* at these activities and therefore *should be encouraged* to specialize in them. This approach tends to pigeonhole children into certain categories and subsequently cast them into expected social roles. That is in direct contradiction with the basic concept of inclusive education, which is respecting children’s individual talents and needs. Of course, this is not to say that music, dance and art be eliminated from the system of multicultural education. But the greatest risk of this misconception is that it reproduces stereotypical notions about Romani children, strengthens division categories of ‘us’ and ‘them’ and interprets Romani culture as perceived by non-Romani teachers.

The **model of financing** education at primary schools features several tools designed to improve conditions for educating children from socially disadvantaged environment, particularly Romani children. Of all existing financial tools,⁵ our research focused on those that may be regarded inclusive to at least some extent, i.e. they contribute to equalizing chances of various children to obtain adequate education. Naturally, financial tools are not enough to introduce inclusive education on their own. A classic example in this respect is

2 According to the valid Schooling Act, zero grades are designed for children that have reached the age of six but have not attained schooling capacity and hail from socially disadvantaged environment. These children may be placed into zero grades as an alternative to postponing their regular school attendance, provided that their lawful representatives agree (Law No. 245/2008 on Upbringing and Education (Schooling Act) that Alters and Amends Certain Laws, Article 19).

3 According to valid legislation, the main purpose of assistant teachers should be “creating equal opportunities in upbringing and education” and overcoming “architectonic, information, language, health, social or cultural barriers” (Law No. 317/2009 on Pedagogical Employees and Professional Employees that Alters and Amends Certain Laws, Article 16 (1)). The position of assistant teachers is further regulated by Education Ministry Regulation No. 437/2009.

4 Since the number of schools that teach Romani language as a separate subject is very low, the survey focused rather on informal use of Romani in the school environment.

5 Financial tools designed for the support of children from socially disadvantaged environment can be divided into direct and indirect, normative and non-normative, etc. For further details, please see Gallová Kriglerová, Elena (ed.), 2010. *Žiaci zo sociálne znevýhodneného prostredia na Slovensku a v zahraničí* [Pupils from Socially Disadvantaged Environment in Slovakia and Abroad]; available at: <http://www.governance.sk/index.php?id=1834>

boarding allowance, which is unable to guarantee that all children will eat together in the same refectory.

The financial tools that in our opinion have the potential to further inclusive education are especially subsidies allocated to improving education conditions of children from socially disadvantaged environment as well as boarding and school things allowances. While disbursing of subsidies increases schools' administrative burden, this disadvantage is outweighed by positive side effects. For instance, the boarding allowance has improved Romani children's school attendance as for many of them it is the only chance to get a hot meal every day. Despite all reservations, the financial tools may be evaluated positively because they are aimed at adapting the school environment to children's needs and not the other way round. After all, children cannot influence what family they come from and whether this family is able to provide sufficient conditions for their education – be it boarding, clothing or school things.

Individual integration is a specific tool designed for pupils with special educational needs. It allows for them to be educated together with other children based on individual educational plans. Over the past ten years, the total number of individually integrated children increased from approximately 7,000 to about 25,000. A substantial part of that increase represented children with teaching disorders (especially dyslexia, dysgraphia or dyscalculia) and behaviour disorders (e.g. activity and attention defects).⁶

According to most interviewed teachers, the main advantage of individual integration is that it places different requirements on individual children; however, it is crucial to establish whether teachers perceive

⁶ Monitoring of individual integration of children and pupils with special educational needs (UIPŠ, 1996 – 2010).

individual integration as a benefit for the child or for themselves, i.e. smooth education process and reduced workload. When children are merely tolerated in regular classes and teachers feel that lowered requirements placed on the children in fact equal less work for themselves, it has very little to do with inclusive education; on the other hand, if lowered requirements defined by an individual teaching plan mean adequate attention to children's individual needs, then we may speak of an inclusive approach. Needless to say, the teacher in this regime is required to work more, not less.

CONCLUSIONS

Inclusive education should be reflected in the school's general atmosphere, the teachers' attitudes and mutual cooperation between all actors of the education process, including children themselves. The measures such as assistant teachers, multicultural education and the use of Romani language have a strong potential to catalyze the process of including Romani children into majority schools. It is essential that the process respects the principles and values of inclusive education. The main reason why the existing tools fail to produce desired results is lingering of the general education model that views children as the basic reason for their failure in school (i.e. "the child is the problem" approach). Instead of seeking adequate forms of education that would respect children's individual talents and needs, the education system uncompromisingly forces them to adapt to its requirements. Consequently, those children that do not comply with these standards continue to fail in school. If the overriding goal is to improve education status of children from marginalized Romani communities, the country's education system must try to achieve that goal through systemic measures. As long as the system waits for the children to change, it simply passes the buck for its own failure. ■

CENSUS RESULTS CONFIRM ASSUMED ASSIMILATION AND STIGMATIZATION TRENDS

BY ALENA CHUDŽÍKOVÁ

In early 2012 the Statistical Office of the Slovak Republic released initial results of the Population Census of Inhabitants, Houses and Flats that had been carried out in May 2011. Besides concrete results that shall be analyzed in the following text, the most recent population census brought ample information on Slovak citizens' growing distrust to state and its institutions. The census was accompanied by intense "civic campaign" that urged people to boycott the census, arguing that disclosed data were not sufficiently protected against abuse. According to publicized news reports, many inhabitants refused to participate in the census altogether and many others only gave out certain types of information. A great number of respondents returned their census data forms without answering questions concerning their nationality (382,493 or 7.0%), native language (405,261 or 7.5%) or denomination (571,437 or 10.6%). During the public debate, information on denomination was particularly frequently called too intimate to be disclosed to official authorities.

THE OBSOLETE CONCEPT OF EXCLUSIVE ETHNIC IDENTITY LINGERS ON

Since collection of ethnically sensitive data is a long-term problem in Slovakia, sociologists and other experts expected the most recent population census especially to provide a more exact picture on the ethnic make-up of Slovakia's population. Compared to the previous census carried out in 2001, the most positive shift was that besides

direct questions examining respondents' ethnic affiliation, the census data forms also featured questions on what languages they most frequently speak at home or in public. On the other hand, the largely obsolete concept of exclusive ethnic identity still lingers on. The census data forms did not allow respondents to declare multiple ethnic affiliations; in other words, respondents were forced to choose between Slovak ethnicity and affiliation to other national minorities or ethnic groups.

It is quite likely that many members of national minorities who feel affiliation to their minority as well as the majority (e.g. children from mixed marriages) officially declared Slovak ethnicity. This may be illustrated by the fact that 9.4% of respondents declared Hungarian to be their mother tongue but only 8.5% of them declared Hungarian ethnicity. It is also quite possible that many Roma (at least officially) declared themselves as Slovaks. One of the reasons may be their lack of distinction between categories of ethnicity and nationality. Some Roma living in Southern Slovakia most probably declared Hungarian

"The largely obsolete concept of exclusive ethnic identity still lingers on. The census data forms did not allow respondents to declare multiple ethnic affiliations; in other words, respondents were forced to choose between Slovak ethnicity and affiliation to other national minorities or ethnic groups."

ethnicity and Hungarian to be their mother tongue. A possibility to mark more than one ethnic affiliation on census data forms might provide a much more precise picture of Slovak inhabitants' multiple ethnic identities.

At the same time, census data forms did not give respondents a chance to express their absent feeling of self-identification with any ethnicity. These respondents did not have any other option than marking none of the answers provided, which meant that they were subsequently placed into the "unavailable" category.

Due to citizens' growing distrust in government and state institutions' inability to restore their confidence, the 2011 population census produced statistical data that will hardly allow for making unambiguous conclusions about the Slovak population's ethnic or religious makeup. The country's sociologists and decision-makers better take the results of the 2011 population census with a pinch of salt and avoid attributing too much importance to changes against the previous population census of 2001.

EXPECTED DECLINE IN TOTAL NUMBER OF ETHNIC HUNGARIANS CONFIRMED

In terms of the size of individual national minorities, the population census confirmed the expected decline in the total number of inhabitants who declare their Hungarian origin. Compared to the previous population census from 2001, the total number of ethnic Hungarians dropped by 62,061, or 1.2 percent. The factors that affected this decline are complex; however, we believe that a significant role is played by Slovakia's minority policy that in the long term portrays ethnic Hungarians as a threat to the Slovaks and Slovakia's territorial integrity, justifying thus adoption of strongly repressive measures such as revoking Slovak citizenship from those ethnic Hungarians

"The factors that affected this decline are complex; however, we believe that a significant role is played by Slovakia's minority policy that in the long term portrays ethnic Hungarians as a threat to the Slovaks. Such policy measures tend to support assimilation of minorities rather than ethnic pluralism."

who apply for Hungarian citizenship or State Language Act. These policy measures tend to support assimilation of minorities rather than ethnic pluralism.

A constant decline in the number of those Slovak citizens who consider Hungarian to be their mother tongue also testifies to the ongoing language assimilation of ethnic Hungarians. In a study from 2009, Zuzana Lamplová-Meszárosóvá¹ observed that

as much as 97% of children from mixed Slovak-Hungarian marriages attend primary schools where Slovak is the main language of instruction. Such a departure from their native language may significantly undermine their ethnic identity. At the same time, the study concluded that Slovak is becoming an increasingly dominant language in southern Slovakia, which refutes the theory upheld by a significant share of the country's political representation that Slovaks living in southern regions are facing Hungarian assimilation.

RUTHENIANS BECAME THE THIRD LARGEST NATIONAL MINORITY

On the other hand, the Ruthenian minority recorded an increase and became the third largest ethnic minority in Slovakia; represen-

tatives of the Ruthenians partly attributed the increase to an extensive information campaign before the census.² The total number of Slovak citizens who declared themselves as Ruthenians was 33,482 (0.6% of Slovakia's total population) and the total number of those who declared Ruthenian to be their mother tongue reached almost 55,500. Yet, Slovakia has a single primary school where the language of instruction is Ruthenian and that school is struggling with serious existential problems.³ The recent official growth in the total number of Ruthenians might serve as an argument for their representatives' effort to drum up greater government support for education in Ruthenian language and other activities that support cultural development of this ethnic minority.

THE ISSUE OF TRUE FREEDOM OF CHOOSING ONE'S IDENTITY

A moderate increase was also recorded in the number of citizens who declared themselves as Roma. In the census, Romani ethnicity was declared by 105,738 citizens or 2% of the country's total population, an increase by 0.3% compared to the previous census from 2001. At the same time, 2.3% of all citizens declared Romani to be their mother tongue and 2.4% of them stated it was the most commonly spoken language at home. These results indicate that the percentage of people who feel to be members of the Romani minority is apparently higher than the share of those who actually declared themselves as Roma. Despite the moderate increase, the official number of Roma continues to be significantly lower than estimates by sociologists and demographers who based on ascribed identity argue that the total number of Roma in Slovakia is somewhere between 320,000 and 400,000.⁴

Public as well as expert debates often present an argument that the exact number of Roma in Slovakia cannot be established. In this context, we are compelled to point out that the actual number of Roma equals to the number of citizens who subjectively declare themselves as Roma, i.e. 105,738 according to the most recent population census. It remains a question, though, whether declaring one's ethnic affiliation is completely free in Slovakia. As we pointed out earlier, census data forms did not allow people to declare multiple ethnic identities.

"Public as well as expert debates often present an argument that the exact number of Roma in Slovakia cannot be established. In this context, we are compelled to point out that the actual number of Roma equals to the number of citizens who subjectively declare themselves as Roma, i.e. 105,738 according to the most recent population census. It remains a question, though, whether declaring one's ethnic affiliation is completely free in Slovakia. One may argue that under normal, more favourable circumstances the number of people declaring Romani ethnicity would be much higher; however, they are currently being deterred by the fear of discrimination and ostracizing by the majority population."

Besides, especially the Roma in Slovakia are in the long term stigmatized within the framework of public policies. The most scandalous example in 2011 was the inte-

1 Please compare to Mészárosóvá-Lamplová, Z. (2009): "Slováci a Maďari na južnom Slovensku – možnosti uplatňovania jazykových práv" [Slovaks and Hungarians in Southern Slovakia: Possibilities to Exercise Language Rights] in Kálmán Petöcz (ed.): *Národný populizmus na Slovensku a slovensko-maďarské vzťahy 2006-2009* [National Populism in Slovakia and Slovak-Hungarian Relations in 2006-2009], Šamorín: Forum Institute for Minority Research, pp. 159-170.

2 Please see <http://presov.korzar.sme.sk/c/6288455/rusini-sa-stali-tretou-najpocetnejdou-mensinou.html>

3 Please see, for instance: <http://www.skolskyportal.sk/clanky/existencne-problemy-jedinej-rusinskej-skoly> or <http://presov.korzar.sme.sk/c/5975247/rusini-chcu-viac-skol.html>

4 Please compare to Jurásková, Martina – Krigerová, Elena – Rybová, Jana (2004): *Atlas rómskych komunit na Slovensku 2004* [Atlas of Romani Communities in Slovakia in 2004], (Bratislava: Úrad splnomocnenkyne vlády SR pre rómske komunity).

rior minister appointing his advisor for Romani criminality, overtly linking ethnicity to potential criminal behaviour. In doing so, the interior minister legitimized negative stereotypes about the Roma and further strengthened the already strong stigmatization of this minority. The negative image of the Roma is reproduced by unprofessional and stereotypical media coverage of “maladjusted and backward fellow citizens”, which takes stigmatization of this minority to a new level.

Given this negative social climate, one may argue that under normal, more favourable circumstances the number of people declaring Romani ethnicity would be much higher; however, they are currently being deterred by the fear of discrimination and ostracizing by the majority population. Being a Roma in Slovakia and managing to preserve positive identity and self-image must be extremely challenging a task. The price for at least partial acceptance is surrendering one's own identity or impossibility to declare it truly freely, based on one's authentic subjective self-perception.

HOW SLOVAKIA PROGRESSED IN INTEGRATION OF FOREIGNERS IN 2011?

BY ALENA CHUDŽÍKOVÁ

In *Minority Policy in Slovakia* No. 1/2011 we commented on the government releasing the *Summary Report on the Fulfilment of Measures of the Strategy of Integration of Foreigners in the Slovak Republic for 2010*. In our analysis we observed that adequate fulfilment of measures spelled out in the *Strategy of Integration of Foreigners in the Slovak Republic* was hindered by the lack of clarity of the term ‘integration’ and consequent vagueness of the document’s goals, government institutions passing responsibility onto the third sector and complicated evaluation of the integration process due to non-existence of necessary statistical data. How did relevant actors cope with these challenges in 2011?

FORMAL APPROACH STILL PREVAILS BUT POSITIVE EXAMPLES BEGIN TO APPEAR

A substantial part of the summary report comes out rather vague because, as I shall explain later, there is still no method in place to evaluate the success rate of the integration process. Most institutions are content with their compliance with formal conditions, mostly transposition of EU directives; however, there is no evaluation of their actual impact on integration of foreigners. One should also note that in their respective reports on the fulfilment of measures envisaged by the strategy, a few institutions speak explicitly of foreigners while most of them speak of “all citizens”.¹

Among the few positive examples are measures adopted by the Ministry of Labour, Social Affairs and Family aimed at facilitating access of foreigners with additional protection and tolerated residence status to the labour market. This initiative is the result of the ministry's intense collaboration with the non-governmental sector and commu-

1 For instance, in the field of providing social assistance to foreigners the Centre of Labour, Social Affairs and Family states that “all **citizens** with permanent or temporary residence on the territory of the Slovak Republic are entitled to receive state welfare benefits, provided that they comply with other eligibility criteria stipulated by the applicable legislation in compliance with which they lodge their claim”. As far as provision of medical care is concerned, the Žilina regional self-government states that “in the case of necessity, urgent medical care shall be provided to every **citizen** regardless of race, sex, nationality, ethnic affiliation, denomination, etc” (highlighted by the author).

CENSUS DATA ARE IMPORTANT TO EXERCISING MINORITY RIGHTS

Statistical data gathered by population censuses are an important source of information about the population's ethnic make-up and form the basis for shaping government's official minority policy and, consequently, exercising minority rights. These data determine, for instance, the volume of state budget funds allocated to the support of minority culture or the way of implementing minority language rights. The smaller the national minority, the smaller the government support to preserve its identity and the smaller the opportunities to exercise its rights and lobby its interests on the national level as the voice of small groups is rarely heard out. National minorities with a limited number of members have very limited chances to defend themselves against assimilation pressures, especially in a country that in the long term endorses assimilation policy. For the time being, it seems one can hardly expect the new Slovak government to support positive identity of members of national minorities. ■

nities of immigrants that was launched during the previous administration's tenure. Unfortunately, the legislative process of drafting an amendment to the law on employment services that would reflect the desired changes has been halted. Other praiseworthy initiatives included improving the availability of information for foreigners in Slovakia by adding a separate English link to the ministry's official website, resuming activities of the Interdepartmental Commission of Experts for Labour Migration and Integration of Foreigners and establishing a task force of experts called the Forum for Integration. On the local level, I would like to point out activities by the Košice regional self-government, which is the first governance body outside capital Bratislava to adopt a responsible approach to the issue of foreigners' integration, which may be illustrated by its report on the fulfilment of measures envisaged by the strategy, for instance in the field of medical care provision that is based on practical data.²

“A step towards elaborating the set of indicators was the 2011 Population Census of Inhabitants, Houses and Flats. However, a population census cannot be considered a tool of integration as it is primarily a statistical survey that is carried out once in ten years. The changing dynamics of migration and potential changes in government's migration policy may render the collected information on foreigners completely irrelevant within a single year.”

LINGERING DEFICIENCIES IN FULFILLING THE STRATEGY

The summary report for 2011 does not suggest almost any progress in collection of statistical data on foreigners in Slovakia. For instance,

2 “The Košice regional self-government pointed out the absence of an information circular for doctors that would inform them of dissimilarities in approach to patients ensuing from cultural differences. The doctors and other members of medical staffs ought to know the limits that affect their attitude to patients. The growth in the number of foreigners on our territory calls for better knowledge of differences brought by individual cultures.” From *Súhrnná správa o plnení opatrení vyplývajúcich z Koncepcie integrácie cudzincov v SR za rok 2011*, p. 37.

there is a long-term shortage of data on housing of foreigners, although the quality of housing as well as ownership of flats or houses is an important indicator of socio-economic status and mobility.³ The data on foreigners' economic integration also remain largely inadequate, although for the sake of objectiveness we must add it was

"A frequent excuse for their failing to discharge measures envisaged by the strategy is the principle of equality whose meaning they apparently misunderstand. The institutions often argue that in providing services they cannot privilege specific population groups by paying to them special attention in their policy documents. Another traditional argument used by government institutions is the lack of powers."

in this area that the country posted perhaps the greatest progress over the past two years.⁴

The strategy assigned the task of elaborating the methodology of monitoring indicators of foreigners' integration to the labour ministry that collaborates with the Statistical Office of the Slovak Republic (ŠÚ SR), other ministries and applicable research institutions. According to ŠÚ SR, a step towards elaborating the set of indicators was the 2011 Population Census of Inhabitants, Houses and Flats that would allow for "stocktaking

of foreigners in compliance with the structure required by the European Union (i.e. age, sex, citizenship, country of birth, year of immigration) and collecting related data on their economic, educational, cultural and language status (i.e. employment status, job position, attained education status, computer skills, nationality, denomination, native language, most frequently spoken language, etc.).⁵ However, a population census cannot be considered a tool of integration as it is primarily a statistical survey that is carried out once in ten years. The changing dynamics of migration and potential changes in government's migration policy may render the collected information on foreigners completely irrelevant within a single year.

Almost three years since adoption of the strategy, the indicators for monitoring foreigners' integration still have not been established. In order to fulfil this task, the Ministry of Labour, Social Affairs and Family required in the summary report to step up the endeavour and establish a more systematic interconnection between government, public and non-governmental sectors. It remains a question who else should take initiative in establishing this interconnection. One thing is for sure: the ministry has been rather idle so far.

WHY MEASURES ENVISAGED BY THE STRATEGY ARE LEFT UNFULFILLED?

Except for the Ministry of Labour, Social Affairs and Family, government authorities are relatively indifferent to the issue of foreigners' integration. A frequent excuse for their failing to discharge measures envisaged by the strategy is the principle of equality whose meaning they apparently misunderstand. The institutions often argue that in providing services they cannot privilege specific population groups by paying to them special attention in their policy documents (e.g.

on the level of self-governments). For instance, the Ministry of Transport, Post and Telecommunications that is charged by the strategy with tasks in the field of supporting foreigners' housing argues that the *Program of Housing Development* must be made available to all eligible applicants including foreigners; however, it refuses to take into account their specific situation.

Another traditional argument used by government institutions is the lack of powers or the non-existent demand for their services on the part of foreigners. The fact remains that due to limited availability of information in other than Slovak language many foreigners do not even know they are entitled to any services at all; consequently, the foreigners show no interest in them and government institutions enjoy the comfort of claiming there is no demand for them.⁶

There has been no progress in the field of language training of applicants for Slovak citizenship. Like in 2010, the Ministry of Interior that should be responsible for this task considers it completed also for 2011, arguing that *"language training of foreigners for this purpose is organized by the Migration Office of the Ministry of Interior, it takes place in refugee camps and is provided by qualified lecturers"*.⁷ In over two years since adoption of the policy document, the Ministry of Interior has apparently not noticed the slight difference between citizenship applicants and asylum seekers. Equally interestingly, it did not identify any problems with verifying citizenship applicants' proficiency in Slovak language in 2011; the ministry apparently ignores the task that requires it to elaborate teaching literature for this purpose in cooperation with other relevant institutions. The required level of proficiency in Slovak is not defined by any official document and government does not provide any support in acquiring it. The command of Slovak and knowledge of Slovak life and institutions continues to be evaluated by a three-member commission without any official guidelines. Such ambiguity, non-transparency and subjectivity may be the source of significant uncertainty among citizenship applicants but the Ministry of Interior apparently fails to see it as a problem.⁸

The obvious trend of transferring responsibility for foreigners' integration from government institutions onto non-governmental organizations continued also in 2011; the problem is that these organizations are unable to implement any systemic measures with sustainable effects because they depend on project financing. The summary report for 2011 observes that the policy of foreigners' integration is still not an issue in Slovakia. In other words, foreigners in Slovakia are still expected to show the level of self-reliance and adaptation that does not require the host country to expend any additional energy on their integration. ■

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3 Kim, A. H., Boyd, M. (2009): "Housing Tenures and Condos: Ownership by Immigrant Generations and the Timing Arrival" in *Canadian Journal of Urban Research*, No. 18(1), p. 47-73.

4 Chudžíková, A. (2011): "Dostupnosť štatistických dát o migrantoch na Slovensku ako podmienka vyhodnocovania politik" [Availability of Statistical Data on Migrants in Slovakia as the Condition of Policy Evaluation] in Michal Vašečka (ed.): *Indikátory integrácie pre 21. storočie. Vieme ako merať úspešnosť integrácie migrantov?* [Integration Indicators for the 21 Century: Do We Know How to Measure the Success Rate of Immigrants' Integration?], (Bratislava: Slovak Governance Institute).

5 *Súhrnná správa o plnení opatrení vyplývajúcich z Konceptie integrácie cudzincov v SR za rok 2011*, p. 3.

6 Please compare, for instance, to Gallová Kriglerová, E., Kadlečíková, J. (2009): "Kultúrna integrácia migrantov na Slovensku" [Cultural Integration of Migrants in Slovakia] in Elena Gallová Kriglerová, Jana Kadlečíková & Jarmila Lajčáková, *Migranti. Nový pohľad na staré problémy* [Migrants: A New Perception of Old Problems], Bratislava: CVEK, p.54.

7 *Súhrnná správa o plnení opatrení vyplývajúcich z Konceptie integrácie cudzincov v SR za rok 2011*, p. 23.

8 Please compare to Gallová Kriglerová, E., Kadlečíková, J. (2012): "Podmienky pre udeľovanie štátneho občianstva Slovenskej republiky" [Conditions for Granting Slovak Citizenship] in Jarmila Lajčáková (ed.): *Menšinová politika na Slovensku v roku 2011. Výročná správa* [Minority Policy in Slovakia: 2011 Annual Report], Bratislava: CVEK. currently in print.

FIRST MONTHS OF ENFORCING NEW ALIEN RESIDENCE ACT REVEALED DEFICIENCIES

BY MIROSLAVA MITTELMANNOVÁ

The previous edition of *Minority Policy in Slovakia* discussed a new law on foreigners' residence that took effect on January 1, 2012.¹ The currently valid legislation aroused unprecedented interest in terms of the number of comments suggested by involved institutions and independent experts. My personal experience with practical implementation of the law's provisions regulating legal procedures

"The new Alien Residence Act has brought more bureaucratic obstacles and complications to the life of detained foreigners, further reducing their scope of guaranteed rights such as the right to legal representation."

of terminating foreigners' residence indicates certain shortcomings of the new law.

DEPORTATION OF FOREIGNERS HAS NO DIGNIFIED ALTERNATIVE TO DETENTION

If foreigners do not possess or have lost authorization to dwell on Slovakia's territory,

which in practical terms means they do not have valid visa or residence permit, they may be administratively expelled from Slovakia's territory by applicable police organs. Before the police decide to restrict foreigners' personal freedom in the form of detention, they should contemplate applying so-called alternatives to detention in every individual case.

The currently valid Alien Residence Act introduced two forms of alternatives to detention: reporting of residence and standing pecuniary security. The alternatives to detention allow foreigners to leave Slovakia without being detained and remanded into police facilities for foreigners. It is certainly a more dignified way of terminating foreigners' residence in the country than depriving them of personal freedom and committing them to a facility with police regime. One should note that applying alternatives to detention is envisaged by the so-called return directive of the European Union (EU). These alternatives are standard also in other EU member states, including the neighbouring Czech Republic.²

Unfortunately, the initial four months of enforcing the new law suggest that applicable organs are reluctant to apply other methods of terminating foreigners' stay than detention.

LAW DENIES DETAINED FOREIGNERS LEGAL REPRESENTATION

New Alien Residence Act also brought another important change that concerns detained foreigners who are remanded to police facilities of alien detention (ÚPZC). According to the valid law, every detained person has the right to be represented by a solicitor or other type of representative. According to joint, temporary and closing clauses of Alien Residence Act (Article 126 Paragraph 4), a detainee's signature on the power of attorney must be verified by a notary public or other public organ. The problem is that detained persons are not allowed to leave ÚPZC facilities and therefore cannot submit their signature on the power of attorney for verification. The currently valid law's absurdity is underlined by a contrast in which appellate proceedings on legal remedies of detention decisions before regional courts of justice do not require verified powers of attorney; on the other hand, appellate proceedings on administrative deportation decisions before police organs that issued these decisions require verified powers of attorney.

The only chance of detained persons is to declare the power of attorney into a protocol before an administrative agency; however, this procedure is very problematic in practice. According to official legal position of the Border Control and Alien Registration Office, ÚPZC facilities are not administrative agencies and therefore are not competent to make out protocols in which foreigners could authorize their legal representatives to represent them in administrative deportation proceedings.

In this situation, the foreigners who wish to appeal decisions on administrative deportation may either choose to do so in their own name or they must sufficiently in advance request the police organ that detained them to make out a protocol in which they declare the power of attorney for a lawyer they have never seen to represent them in appellate proceedings on the decision on administrative deportation.

The practical experience of lawyers working for Human Rights League, a non-governmental organization that provides legal assistance to foreigners remanded in ÚPZC facilities in Medveďov and Sečovce, indicates that the new Alien Residence Act has brought more bureaucratic obstacles and complications to the life of detained foreigners, further reducing their scope of guaranteed rights such as the right to legal representation. ■

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1 Bargerová, Z. (2011). Slovakia Tightens Alien Residence Act, *Minority Policy in Slovakia*, 4/2011.

2 Please see http://docs.opu.cz/OPU_brozura_CZ_12011012_web.pdf, p. 36.

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