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EDITORIAL

BY JARMILA LAJČÁKOVÁ

Recent changes to institutional protection of human and minority rights signalize an ideological shift as well. In our feature analysis we argue that minority rights are not perceived as an integral part of human rights but 'separately', as an issue of national minorities' national interests. Author Ivan Šimko discusses possible reasons why this shift also brings about a reduction in the scope of minority rights as opposed to 'equalization' of the status of national minorities with that of the statehood nation. In his article that discusses a lecture by Larry Wolff, Šimko explains that members of the political elite tend to view furthering national minorities' dissimilarity and cultural diversity *a priori* as a threat to the nation's vital interests. As a result, the elite at helm seek compromise solutions "that allow the country to access European structural funds and remain credible in the eyes of the investors". The decision to appoint a representative of the largest national minority to the post of government plenipotentiary for national minorities is an apparent compromise that is supposed to avoid a complete international fiasco as well as to assure the inflow of European money into the country.

Shifting the focus away from minority and human rights policy is imprudent – to say the least – at

IDEOLOGICAL AND INSTITUTIONAL CHANGES TO MINORITY POLICY

BY JARMILA LAJČÁKOVÁ

We base our perception and evaluation of minority policy on the principle of justice and respect for human dignity. We view all measures that are aimed at furthering equality between members of national minorities and those of the majority as progressive. On the other hand, we negatively assess policies that construe minorities as a threat (so-called securitization of the public discourse) and thus reduce chances of minorities' members to lead a dignified life in this country.

How should one perceive changes to institutional protection of minority rights that were implemented in the second quarter of 2012? Along with altering minority policy's institutional framework, the incumbent administration changed especially its ideological foundation by excluding the issue of national minorities' ethnic rights from the general scope of human rights as it had been set by the Office of Deputy Prime Minister for Human Rights, National Minorities and Gender Equality that was in the previous administration led by Rudolf Chmel.

Minority rights that are perceived as part of human rights are based on the individual approach. In other words, they focus on the question of how supporting a minority culture or language may improve that minority members' chances to lead equally full-fledged lives. For instance, using minority children's mother tongue as the language of instruction is likely to enhance their education and increase their chances to succeed. At the same time, minority rights that form an integral part of human rights can never take the form that would suppress individual rights. The point is that human rights do not prefer one source of individual identity (e.g. ethnic affiliation) to another, for instance gender, socio-economic status or health handicap. Last but not least, pursuing minority policy in the scope of human rights policy is also important because it reduces securitization of national minorities and minority rights.

The incumbent administration has significantly deviated from this desirable course. The cabinet's proposed amendment to so-called Competence Act¹ dissipates the human rights agenda among ministerial departments that lack adequate powers, expertise and personnel to administer it. The rights of national minorities have been torn out of the context as a national issue and then 'generously' offered to the political party that represents the country's largest national minority. On the first glimpse, portraying the rights of national minorities as a national interest issue of the entire minority as opposed to that of its individual members may appear as progressive in some way. The subsequent decision to appoint László Nagy, an ethnic Hungarian representative who has long specialized in minority issues, to the newly-created post of government plenipotentiary for national minorities may also be interpreted as increasing chances of national minorities (at least one of them) to decide on issues that concern their communities.

Actually, the institutional change along with narrowing down participative minority rights significantly reduces the importance of the issue of national minorities' rights. Abolishing the post of deputy prime minister for human rights, national minorities and gender equality and introducing a new post of government plenipotentiary for minorities in fact amounts to replacing an executive body with the powers of a cabinet member by an advisory body with minimum powers of primarily monitoring nature. The plenipotentiary's chances to effect any change in the field of minority rights protection directly depend on leniency of the head of the Slovak Government's Office to which the office of government plenipotentiary reports. While the previously existing deputy prime minister officially participated "in discharging tasks that concern education and upbringing, including educa-

"Pursuing minority policy in the scope of human rights policy is important because it reduces securitization of national minorities and minority rights. However, the incumbent administration has significantly deviated from this desirable course."

1 Bill that seeks to alter and amend Law No. 575/2001 on Organization of Government and Central State Administration Organs, as amended (Competence Act) that was approved by the Slovak Government Resolution No. 226/2012 of May 31, 2012, and subsequently submitted to parliament.

the point when the European Court of Human Rights delivered to the Slovak Republic three very unflattering rulings that indicate government's failure to protect rights of the most vulnerable population groups; each of these rulings is discussed in detail in the present edition of our quarterly newsletter. It is daring at the time of escalating interethnic tension recently exposed by the Hurbanovo tragedy, which is analyzed in a separate article by Elena Gallová Kriglerová. It is baffling when local and municipal self-governments more and more frequently resort to populist solutions such as demolition of Romani dwellings, which we view not only immoral but also apparently illegal. Last but not least, recently published findings of the long-term anthropological research among the Roma carried out by Ľuboš Kovács and Martin Kanovský discuss the force of stereotypes that not only prevent the minority from escaping the dependence trap but often provide the basis for public policies.

Dear readers, let me express my earnest hope that the critical tone of the present edition of *Minority Policy in Slovakia* will not discourage you from reading it in the middle of the summer holiday season. Quite the contrary, I hope that it will inspire you to reflect on more principled solutions to problems that in my opinion have their origin in 'the Slovak issue' as opposed to the Hungarian or Roma one as many seem to believe. ■

>> IDEOLOGICAL AND INSTITUTIONAL CHANGES TO MINORITY POLICY

tion and upbringing of national minorities", the government plenipotentiary is supposed to "pay attention to improving education and upbringing of members of national minorities".² In simpler terms, the government plenipotentiary has responsibilities without opportunities.

The symbolic shift towards perceiving minorities as a threat may perhaps be best illustrated by amending statutes of the Office of Government Plenipotentiary for Romani Communities. One of the most fundamental changes is moving the office from the auspices of the Office of Prime Minister to that of the Interior Ministry.³ The justification report that accompanied the applicable cabinet resolution failed to state satisfactory reasons why the office that focuses primarily on issues such as human rights, social inclusion, employment, education or housing should report to a force department. Fur-

"The symbolic shift towards perceiving minorities as a threat may perhaps be best illustrated by amending statutes of the Office of Government Plenipotentiary for Romani Communities. The justification report that accompanied the applicable cabinet resolution failed to state satisfactory reasons why the office that focuses primarily on issues such as human rights, social inclusion, employment, education or housing should report to a force department."

thermore, the publicly declared intention to move the office from Bratislava to East Slovakia betrays an attempt to reduce its chances to influence policies pursued by central state administration organs that are based in the capital.

Recent institutional changes in the field of minority policy do not correspond to the incumbent administration's pledge to preserve the declared *status quo* in terms of protection of national minorities' rights. The cabinet made a politically shrewd move to appoint members of minorities and simultaneously representatives of the opposition to the newly-created post of

government plenipotentiary for national minorities and probably also the post of government plenipotentiary for Romani communities. The problem is that their chances to effect substantial changes in their respective areas of competence directly depend on benevolence of the ruling party, which for the time being seems to view legitimate demands of national minorities not as issues of equality and justice but as a threat to vital interests of the so-called statehood nation that is defined by ethnic terms. ■

2 Article 3 Paragraph 2 letter e) of the Statutes of Slovak Government's Plenipotentiary for National Minorities that was approved by the Slovak Government Resolution No. 262/2012 of June 13, 2012.

3 The statutes were approved by the Slovak Government Resolution No. 308/2012 of June 27, 2012.

THE LABSI CASE AND NATIONAL SECURITY

BY ZUZANA ŠTEVULOVÁ¹

The following article examines the recent ruling issued by the European Court of Human Rights (ECHR) in the case of *Labsi vs. the Slovak Republic*,² which found that the decision by the Slovak Republic to extradite Mustapha Labsi to Algeria in 2010 violated Article 3 (i.e. the ban on torture and other inhuman and degrading treatment), Article 13 (i.e. the right to effective remedy) and Article 34 (i.e. the right to lodge individual complaint) of the *Convention for the Protection of Human Rights and Fundamental Freedoms* (hereinafter referred to as "Convention"). The author analyzes some of the most relevant aspects of the case, including justifications cited by the ECHR, and discusses legitimacy of the Slovak Government's actions and what are or may be their implications.

Two years ago, the Slovak Government decided to extradite Mustapha Labsi to Algeria in spite of legal positions by the European Court of Human Rights, the Constitutional Court of the Slovak Republic and the Supreme Court of the Slovak Republic. Specifically, the decision on deportation defied a preliminary ruling by which the ECHR imposed an injunction on Labsi's deportation as well as a verdict by the Supreme Court of the Slovak Republic, which ruled that Labsi's deportation to his home country was unacceptable because he might be tortured there.

Róbert Kaliňák (Smer-SD), Slovakia's interior minister at the time of extradition who meanwhile returned to his post after the most recent parliamentary elections, commented on the decision in the following way: "The extradition of Mustapha Labsi is most importantly a victory of common sense and simultaneously a guarantee of our citizens' safety. We cannot afford to let a person that has been repeatedly convicted of criminal acts of terrorism roam freely on our territory." The interior minister also pointed out diplomatic guarantees the Slovak Republic had received from the Algerian Government, which reportedly guaranteed Labsi a standard and independent trial and assured that he was under no threat of torture and/or death penalty.

Kaliňák referred to similar decisions by other EU member states, arguing that the fears of torture had never been substantiated in any of these cases. According to the official position by the Ministry of Interior at the time, the Slovak Government decided to extradite Labsi "despite the risk of possible violation of the right to lodge individual complaint as it was convinced there had been no meritorious violation of rights", adding that sanctions for ignoring preliminary rulings by the ECHR in similar cases amounted to "only couple of thousands of euro". The ministry cited diplomatic safeguards provided by Algeria that Labsi was under no imminent threat of torture and that he was guaranteed a fair trial. According to the ministry, protection of Slovak citizens' safety in this particular case prevailed over individual rights of a person convicted of criminal acts of terrorism.³

"Two years ago, the Slovak Government decided to extradite Mustapha Labsi to Algeria in spite of legal positions by the European Court of Human Rights, the Constitutional Court of the Slovak Republic and the Supreme Court of the Slovak Republic, which ruled that Labsi's deportation to his home country was unacceptable because he might be tortured there. According to then interior minister the extradition of Mustapha Labsi was a victory of common sense and simultaneously a guarantee of our citizens' safety."

1 The author works as a lawyer with Human Rights League, a civic association that since 2005 specializes in providing legal assistance and counselling to asylum seekers, asylum applicants and foreigners with subsidiary protection status in Slovakia.

2 *Labsi vs. the Slovak Republic*, Complaint No. 33809/08; ruling of May 15, 2012.

3 Please see http://m.tvnoviny.sk/bin/mobile/index.php?article_id=548662

Two years later, on May 15, 2012, the ECHR ruled that the Slovak Republic, a member state of the European Union and a signatory state of the *Convention for the Protection of Human Rights and Fundamental Freedoms* and all other relevant international human rights documents had violated Article 3 of the Convention (i.e. the absolute ban on subjecting any person to torture or to inhuman or degrading treatment or punishment), Article 13 of the Convention (i.e. the right to effective remedy) and Article 34 of the Convention (i.e. the right to lodge individual complaint). According to the ECHR, the Slovak Republic had committed exactly the same “*meritorious violation of rights*” the Ministry of Interior was convinced did not exist in 2010. At the same time, the ECHR decided that the fine that was supposed to amount to “*only couple of thousands of euro*” would eventually total €17,500, which

“After the May ruling of ECHR it is clear that Slovak Republic had violated the absolute ban on subjecting any person to torture or to inhuman or degrading treatment or punishment.”

includes €15,000 as indemnification awarded to Labsi and €2,500 as legal charges.

Immediately after the ruling had been issued, Interior Minister Róbert Kaliňák said he needed to review the ECHR ruling before he could take any position on it.⁴ Until the present day, though, neither he nor any official of the Ministry of Justice have been able to do so.

The principal goal of this article is to summarize the main points of the ECHR ruling and compare them to positions and arguments of the Slovak Government.

PRELIMINARY RULING IN COMPLIANCE WITH ARTICLE 39 OF THE COURT’S STANDING ORDER

In his only comment on the case since the ruling’s publication, Interior Minister Kaliňák said that in his opinion the ECHR preliminary ruling had not applied at the time of Labsi’s extradition. Apparently, the minister has completely forgotten his own statement from April 2010 in which he admitted that Slovakia had consciously ignored the ECHR preliminary ruling despite the risk of potential financial sanction. Even if we believed that the interior minister who by the way is a lawyer by profession has in the meantime found a plausible legal way to convince himself that the ECHR preliminary ruling did not apply in April 2010, the ECHR final ruling can easily lead us out of this erroneous assumption.

In the ruling the ECHR points out that on July 18, 2008 (i.e. the day of lodging the complaint), it issued a preliminary ruling in compliance with Article 39 of the Court’s Standing Order, ordering that the complainant “*should not be extradited to Algeria*”.⁵ On August 13, 2008, the ECHR repeatedly ruled that according to Article 39 of the Court’s Standing Order the complainant “*must not be deported to Algeria*”. The Court explicitly stipulated that the measure was to remain in force for a period of two weeks following the outcome of the asylum proceedings, the ensuing expulsion proceedings as the case [might] be and, as appropriate, of any complaint which [the applicant] lodge[d] with the Constitutional Court in respect of those proceedings”.⁶

In response to a request by Labsi’s legal representative, the ECHR issued an explanatory letter on April 16, 2010, confirming validity of the ECHR preliminary ruling of August 13, 2008, and reasoning that said preliminary ruling shall apply until the Constitutional Court of the Slovak Republic decides on Labsi’s complaint. A copy of this letter was also delivered to the Slovak Government, explicitly warning it that the ECHR preliminary ruling continues to apply.⁷

On April 22, 2010, the Ministry of Interior informed the general public on the decision to extradite Mustapha Labsi to Algeria, compelling his legal representative to inform the ECHR about the decision. The ECHR im-

mediately called on the cabinet to take a standpoint on said information. In a letter to the ECHR of April 26, 2010, the cabinet confirmed that Labsi had been extradited to Algeria on April 19, 2010, on grounds of a decision on administrative deportation and a ban of entry issued in 2006. In its correspondence with the ECHR that followed, the Ministry of Interior emphasized that in this particular case it was driven by the need to protect society against a person that had been convicted of affiliation to a terrorist organization and that Slovakia’s action had not contradicted its commitments ensuing from the Convention.⁸

Nevertheless, the ECHR refused to acknowledge arguments presented by the Slovak Government, concluding that by deporting Labsi contrary to the preliminary ruling and, worse yet, before any communication took place between the cabinet and the complainant regarding the complaint’s applicability and acceptability, the Slovak Republic prevented the ECHR from properly examining the circumstances of the complaint and protecting the complainant from treatment that is outlawed by Article 3 of the Convention. A direct result of the Slovak Government’s action was that it prevented the complainant from effectively exercising his right to lodge an individual complaint in compliance with Article 34 of the Convention.⁹

It is plain to see that the ECHR preliminary ruling did apply at the time of Labsi’s extradition to Algeria, a fact the Slovak Government was specifically informed in writing just days before the act of deportation took place.

VIOLATION OF ARTICLE 3 OF THE CONVENTION

As far as the complaint’s crucial point is concerned (i.e. that the Slovak Republic contravened Article 3 of the Convention by extraditing Labsi), the ECHR clearly identified itself with the complainant’s objections and decided that the Slovak Republic had violated its commitment not to subject any person to torture or to inhuman or degrading treatment or punishment.

In the ruling, the ECHR pointed out the principles its jurisdiction in this area is based on, emphasizing signatory states’ prerogative to protect their territory and their citizens against terrorism. The signatory states have the right to extradite persons that are not their citizens and may threaten national security. While it is not the role of the ECHR to assess whether concrete individuals pose a risk to national security or not, it must examine whether extradition of such persons has or has not breached their rights guaranteed by the Convention. The Court emphasized the absolute nature of Article 3, which applies even to persons that pose or may pose a threat to national security. If there is any evidence that deportation of a concrete person may expose it to treatment that is inconsistent with Article 3 of the Convention, then deportation of such a person contravenes the Convention.

The ECHR in its ruling argued that diplomatic guarantees Algeria had provided to the Slovak Republic were of general nature and therefore had to be examined in the light of information on developments in the complainant’s home country. The ECHR also referred to the verdict in which the Slovak Supreme Court found that Labsi’s extradition to Algeria was unacceptable exactly on grounds he might be tortured there.¹⁰

“The ECHR refused to acknowledge arguments presented by the Slovak Government and emphasized the absolute nature of the ban on subjecting any person to torture or to inhuman or degrading treatment or punishment, which applies even to persons that pose or may pose a threat to national security. The state is in no circumstances entitled to expose a person to the risk of being tortured.”

4 Please see <http://www.sme.sk/c/6377667/labsimu-musime-za-vyhostenie-zaplatic-odskodne.html>

5 ECHR ruling in the case of *Labsi vs. the Slovak Republic* of May 15, 2012, page 8, point 48.

6 ECHR ruling in the case of *Labsi vs. the Slovak Republic* of May 15, 2012, page 8, point 49.

7 ECHR ruling in the case of *Labsi vs. the Slovak Republic* of May 15, 2012, page 8, point 51 and 52.

8 A letter of May 10, 2010; ECHR ruling in the case of *Labsi vs. the Slovak Republic* of May 15, 2012, page 8, point 51 and following.

9 ECHR ruling in the case of *Labsi vs. the Slovak Republic* of May 15, 2012, page 8, point 141 and following.

10 Ruling by the Supreme Court of the Slovak Republic of August 7, 2008, in which the Supreme Court held it was unacceptable to extradite Mustapha Labsi to Algeria for criminal prosecution on grounds of reasonable fear that he would be subjected to treatment that contravenes Article 3 of the Convention.

The ECHR based its decision also on its past rulings, namely *Daoudi vs. France*¹¹ and *H.R. vs. France*,¹² in which it examined the political situation in Algeria with respect to extradition of complainants, observing there has been no essential improvement of the situation since these rulings were issued and therefore it saw no reasons to deviate from its previous judicature. According to the ECHR, at the time of his extradition there was a reason to believe that the complainant would be exposed to the imminent danger of treatment that contravenes Article 3 of the Convention.

The ECHR also rejected the Slovak Government's official argumentation that protection of Slovak citizens' safety and national security prevailed over individual rights in this particular case, reiterating the absolute nature of protection against torture and arguing there were no reasons that would justify a signatory state to expose any person to the risk of torture.

In this context the ECHR pointed out that according to available information, Labsi was apprehended by officers of the Department of Security and Information (DRS)¹³ immediately upon his return to Algeria and held prisoner for 12 days; only then was he transferred to El Harrach penitentiary where he should be at this point. Algeria did not react to Slovakia's official request to allow Interior Ministry's representative to visit Mustapha Labsi in prison in order to inspect his condition. Last but not least, the Slovak Republic refused to assist Labsi's legal representative in restoring contact with the complainant. All these circumstances led the ECHR to believe that the guarantees provided by Algeria were insufficient and therefore could not influence the final ruling.

VIOLATION OF ARTICLE 13 OF THE CONVENTION – THE RIGHT TO EFFECTIVE REMEDY

The ECHR also ruled that extraditing Labsi a single workday after the Supreme Court had delivered to him the ruling regarding his asylum application prevented him from lodging a complaint with the Constitutional Court and thus violated his right to effective remedy that is guaranteed by Article 13 of the Convention.

Finally, the ECHR decided to award to Mustapha Labsi financial indemnification amounting to €15,000. On top of everything, the Slovak Republic is obliged to settle legal charges amounting to €2,500; the amount is payable to Labsi's legal representative's account within three months after the ruling takes effect.

“The state's reticence over a fundamental human rights issue such as finding the Slovak Republic responsible for exposing somebody to the risk of torture indicates fundamental value problems our society is currently facing. The actions of the government that make an impression that it is alright or even correct to place national security issues above anybody's fundamental human rights, particularly those of foreigners, severely undermines the values of democracy and human rights protection, i.e. the foundation on which the Slovak Republic claims to be built.”

Whether we like it or not, the ECHR ruling in the case of *Labsi vs. the Slovak Republic* reminded Slovakia of its commitments in the field of human rights protection it must respect and abide by regardless of what kind of person it is dealing with.

The reticence of the Slovak Government, particularly the Ministry of Interior and the Ministry of Justice, over a fundamental human rights issue such as finding the Slovak Republic responsible for exposing somebody to the risk of torture indicates fundamental value problems our society is currently facing.

The actions of the government and its representatives that

make an impression that it is alright or even correct to place national security issues above anybody's fundamental human rights, particularly

11 *Daoudi vs. France*, Complaint No. 19576/08; ruling of December 3, 2009.

12 *H.R. vs. France*, Complaint No. 64780/09, ruling of September 22, 2011.

13 According to reports by Amnesty International, DRS is a state organ that is responsible for unauthorized arresting and torturing of persons that are suspected of terrorism (please see, for instance, point 87 and following of the ruling).

those of foreigners, severely undermines the values of democracy and human rights protection, i.e. the foundation on which the Slovak Republic claims to be built.

Recently we seem to have gotten used to perceiving foreigners as something less than human beings. Many people normally refer to them as “illegal migrants” or “illegals”, as if to demonstrate *defying their right to very existence*. The measures and decisions our country adopts in the field of foreigners' entry, residence or employment on its territory are justified primarily by the need to protect the Slovak Republic and the public interest. Unfortunately, government rarely bothers to supply concrete evidence on which aspect of national security has been or might be jeopardized by what action, i.e. what is the actual threat to national security in particular cases.¹⁴

This sends a negative message both to foreigners and the general public. It increases uncertainty of the former, strengthening their feeling that their lives are in our hands and that they are merely tolerated guests who should not hope to find a new home here; simultaneously, it makes the latter get used to the concept of foreigners as a potential threat that may be justifiably staved off by any means available, including those that violate their fundamental rights and freedoms.

As a result, foreigners in our society are gradually becoming more and more excluded. The bitterest losers of this trend are those who deserve protection for one reason or another, for instance foreigners with subsidiary protection status.¹⁵ The attitudes of the general public as well as its political leaders negatively affect the process of foreigners' integration and indicate that the Slovak Republic is for the time being uninterested in indisputable economic, cultural and demographic benefits of migration. Paradoxically, this is the kind of attitude that may harm this country's interests in the long term.

Another very disturbing fact is that the ruling in the Labsi case is merely one of four rulings over the past several months in which the ECHR found the Slovak Republic guilty of breaching Article 3 of the Convention.¹⁶ The remaining three cases involve Romani complainants who claim their human rights have been curtailed on grounds of their ethnic origin. We fear that fundamental human rights of minority members and foreigners are less valued – and protected – in Slovakia than those of the majority population. This very fact makes members of the majority the greatest threat to traditional values of the western civilization.

What are the chances to prevent negative implications? For a start, it could perhaps suffice if the Ministry of Interior and the Ministry of Justice acknowledged that the decision to extradite Mustapha Labsi violated his fundamental rights and simultaneously provided guarantees that such decisions will not be adopted in the future. I reckon it would be quite naive to expect Interior Minister Róbert Kaliňák to accept personal responsibility and pay the “couple of thousands of euro” out of his own pocket as opposed to taxpayers' money. ■

14 For instance, in this particular case the government never specified how Mustapha Labsi threatened security of the Slovak Republic. Practically since his arrival in Slovakia in 2006, Labsi was almost constantly in extradition custody in a police detention unit for foreigners or in an asylum seekers camp under police surveillance. The Ministry of Interior expended significant funds to guard Labsi; in 2008, Labsi demonstrated the quality of police surveillance by escaping from the guarded camp for asylum seekers in Rohovce to Austria. Despite his escape, Labsi apparently did not have any chance to pursue any terrorism activities on Slovakia's territory between 2006 and his deportation; furthermore, nothing in his behaviour or statements indicated that he intended to pursue such activities in the future. The Ministry of Interior has never produced any evidence that would suggest otherwise.

15 Please see Bargerová, Zuzana – Fajnorová, Katarína – Chudžíková, Alena: *Stav integrácie cudzincov s doplňkovou ochranou do spoločnosti a návrhy pre tvorcov verejných politík* [Integration of Foreigners with subsidiary Protection Status into Society and Recommendations for Public Policy Makers], (Stimul, Bratislava 2011, ISBN 978-80-8127-018-5).

16 ECHR ruling in the case of *V.C. vs. the Slovak Republic* of November 8, 2011; ECHR ruling in the case of *Koky et al vs. the Slovak Republic* of June 12, 2012; ECHR ruling in the case of *N.B. vs. the Slovak Republic* of June 12, 2012.

DAY OF DOUBLE DIPLOMATIC DISGRACE: CASE OF *KOKY ET AL VS. THE SLOVAK REPUBLIC* AND *N.B. VS. THE SLOVAK REPUBLIC*

BY JARMILA LAJČÁKOVÁ

On June 12, 2012, less than a month after the European Court of Human Rights (ECHR) issued the final ruling in the case of *Labsi vs. the Slovak Republic* that was truly embarrassing for the Slovak Government, the country's human rights reputation suffered two additional blows in the form of two unanimous ECHR rulings, namely in cases of *Koky et al vs. the Slovak Republic* and *N.B. vs. the Slovak Republic*. The former case revolved around a violent assault on residents of a Romani settlement while the latter case involved doctors' violation of reproduction rights of a young Romani woman. Both verdicts suggest that Slovakia is unable to provide effective protection against inhuman and degrading treatment to members of Romani communities.

KOKY ET AL VS. THE SLOVAK REPUBLIC

Mr. Koky along with nine other Romani complainants brought legal action against the Slovak Republic for being unable to protect them from torture and other inhuman or degrading treatment.¹ According to the complainants, government had been unable to assure a prompt, effective and impartial investigation and adequate punishment of what was apparently a racially motivated attack on them.

A prelude to the assault on the Romani settlement was an incident in the village of Gánovce-Filice near Poprad on February 28, 2002. It was provoked by a non-Romani waitress who refused to serve a Romani customer in the local pub.² In the evening of the same day, a group of 12 assailants wearing ski-masks and armed with baseball bats and iron bars brutally attacked several Romani families in their own homes in the nearby Romani settlement while uttering a torrent of vulgar racist curses. The victims suffered serious injuries and property damage.³ After several fruitless attempts to press criminal charges and complaints objecting to Slovak law enforcement organs' inability to investigate the incident properly, Mr. Koky and nine other victims turned to the ECHR.

According to the ECHR ruling, protection in compliance with Article 3 of the *Convention for the Protection of Human Rights and Fundamental Freedoms* also applies to actions by private individuals. At the same time, state administration organs are obliged to guarantee prompt and effective investigation if there is reasonable suspicion that such actions have taken place.⁴ Slovak law enforcement organs failed to examine the telephone communication or assailants' biological evidence that was secured at the scene of the crime. The ECHR established violation of procedural guarantees spelled out in Article 3 of the Convention, emphasizing that signatory states must pay extra attention to proper and impartial investigation of racially motivated attacks on vulnerable population groups.

N.B. VS. THE SLOVAK REPUBLIC

On the same day, Slovakia's reputation was stained by another disgraceful ECHR ruling in a different yet equally important human rights case that had to do with forcible sterilization of a young Romani woman.⁵ The case of *N.B. vs. the Slovak Republic* that was filed by the Centre for Civil and Human Rights shares several hallmarks with the case of *V.C. vs. the Slovak Republic* the ECHR adjudicated in 2011 and *Minority Policy in Slovakia* discussed in one of its past editions.⁶

In 2001, ten days before she came of age and shortly after she delivered her second child, Mrs. N.B. undertook an unlawful surgery at the Gelnica hospital. Having administered heavy sedatives to alleviate labour pains before the planned Caesarean section, the hospital staff requested the complainant to sign a sterilization application.⁷ They intentionally misled the patient by telling her that she might die if she refused to sign the request. The patient was unable to take stock of the situation; they had to lead her hand while she signed the consent. Just minutes later, Mrs. N.B. delivered her second child and subsequently was sterilized. After the delivery, she was placed into a separate room for Romani women.

More than two weeks later, a sterilization commission of the Gelnica hospital *ex post facto* approved a decision to perform the surgery on then minor patient, reasoning that sterilization was performed in compliance with the sterilization guideline of 1972, based on the patient's request and in the best interest of protecting her life.⁸ The patient learned about the surgery more than one year later, which marked her both physically and mentally. On account of her infertility, she was ostracized by her own Romani community, which negatively affected the relation with her husband.⁹

Like Mrs. V.C., Mrs. N.B. unsuccessfully demanded adequate indemnification for the unlawful surgery, which never received informed authorization from herself or her mother who was her legal guardian at the time. Needless to say, Mrs. N.B. was equally unsuccessful in demanding that the conduct of the Gelnica hospital's medical staff be properly investigated by law enforcement organs.

In its ruling, the ECHR held that like in the case of *V.C. vs. the Slovak Republic*, the surgery did not constitute a life-saving operation. The sterilization was performed without proper informed consent by the complainant and/or her legal guardian. The act of wringing the complainant's consent to the surgery during labour pains and after subduing her cognitive capacity has harmed her physical integrity and represented a coarse violation of human dignity¹⁰ that flew in the face of Article 3 of the Convention (i.e. the ban on torture and other inhuman or degrading treatment). The Court also ruled that the complainant's right to private and family life had been violated. According to the Court, the Slovak Government failed to provide effective legal protection of reproduction rights, especially with respect to women of Romani origin.

In her motion, the complainant claimed that the main reason for the unlawful surgery was her ethnic origin. Unlike in the case of *V.C. vs. the Slovak Republic*, the Court also examined this aspect of the complaint; however, based on available evidence it was unable to judge "whether the doctors acted in mala fide" and whether the sterilization was "part of organized policy or whether the conduct by the hospital's medical staff was deliberate and racially motivated". At the same time, the Court pointed out legislative deficiencies that had allowed excessive interference with reproduction rights of Romani women.¹¹

In the long term, the Slovak Republic refuses to acknowledge the problem of forcible sterilizations of Romani women. As we have illustrated on the case of *V.C. vs. the Slovak Republic*, the non-existence of ethni-

1 *Koky et al vs. the Slovak Republic*, Complaint No. 13624/03; ruling of June 12, 2012.

2 *Ibid*, paragraph 4.

3 *Ibid*, paragraph 53.

4 *Ibid*, paragraph 213.

5 *N.B. vs. the Slovak Republic*, Complaint No. 29518/10; ruling of June 12, 2012.

6 Jarmila Lajčáková, "Forcible Sterilizations of Romani Women Call for Proper Investigation and Public Condemnation", *Minority Policy in Slovakia*

4/2011; available at: http://www.cvek.sk/uploaded/files/Mensinova%20politika%20na%20Slovensku%2004_2011.pdf

7 *N.B. vs. the Slovak Republic*, Complaint No. 29518/10; ruling of June 12, 2012, paragraph 8.

8 *Ibid*, paragraph 19.

9 *Ibid*, paragraph 18.

10 *Ibid*, paragraph 77.

11 *Ibid*, paragraph 121.

cally sensitive statistical data prevents applicable organs from gathering evidence that would justify the conclusion that insufficient legislation has allowed for indirect discrimination against Romani women in terms of protecting their reproduction rights. On the other hand, it is worth noticing that this time the Court was willing to examine the ethnic aspect of the case. “It seems that government prefers risking international disgrace every seven months to finally facing the problem and solving it once and for all,” said the complainant’s legal representative Barbora

Bukovská. “Government must apologize to the aggrieved women and indemnify them.”¹²

Along with the ECHR ruling in the case of *Labsi vs. the Slovak Republic*, both cases apparently suggest that the Slovak Government cares about Slovakia’s international reputation the same way it does about protecting fundamental human rights of the most vulnerable population groups. ■

12 A press release by the Centre for Civil and Human Rights of June 13, 2012.

DEMOLITION OF ROMANI SHACKS IS INHUMAN AND PROBABLY UNLAWFUL

THERE IS A DECENT ALTERNATIVE TO DEMOLISHING ILLEGAL ROMANI DWELLINGS

BY JARMILA LAJČÁKOVÁ

The practice of demolishing illegal dwellings inhabited by poor Roma became rampant over the past quarter. While this practice is highly questionable from the viewpoint of legality, it certainly fails to tackle the problem of poverty and social exclusion of the Roma. That repression is not the only way to tackle the issue of illegal settlements may be illustrated on the example of those local councils that settled ownership pertaining to land under illegal Romani dwellings more than a decade ago. These local leaders were the first to understand that setting land ownership and legalizing it for the purpose of construction was the inevitable precondition to future development of not only Romani communities but entire municipalities.

LEGITIMACY OF DEMOLISHING ILLEGAL ROMANI DWELLINGS ALSO DEPENDS ON THE HISTORICAL CONTEXT

The media discourse as well as measures adopted by decision-makers apparently ignores a broader historical context of how Romani settlements came to be. A decade ago, this context was highlighted by Anna Jurová, one of few researchers in Slovakia who specializes in this issue. In her survey examining the emergence and localization of Romani settlements in Slovakia, Jurová observed: “The Roma did not settle this territory illegally and they did not establish their settlements, colonies or camps without permission from local landlords; on the contrary, they did so to abide by their direct orders and decrees.”¹

Throughout history, existence of segregated settlements was often a direct result of repressive measures aimed at edging the unpopular minority to the margin of society. The infamous decree enacted in 1940 by the fascist Slovak State ordered all municipalities to evacuate “Gypsy dwellings alongside public, state and vicinity roads” and move them “away from the municipality, to remote places that are designated by the municipality ... using any coercive means.”² Less than two decades later, the communist regime launched a nationwide campaign aimed at solving the so-called Roma issue, which in practice amounted to dissipating Romani families by force, liquidating parts of Romani settlements and buying out poor Romani shacks, thus practically legitimizing the existence of property title to these dwellings.

The public discourse on the so-called Roma issue throughout Slovakia’s most recent history often seems to forget that launching social transformation processes and introducing neoliberal reforms after 1989 not only prevented poor Roma from solving their housing situation but directly contributed to a dramatic increase in the total number of illegal Romani settlements over the past two decades.³

CASE OF YORDANOVA ET AL VS. BULGARIA

It is this broader context together with the condition of concrete settlements and their inhabitants that should be decisive in legal examination of public administration organs’ decisions to demolish illegal Romani dwellings. A recent case of *Yordanova et al vs. Bulgaria*⁴ also highlighted the importance of circumstances of illegal settlements’ emergence. The central point of the case was the local government’s plan to demolish a Romani settlement in capital Sofia.

On April 24, 2012, the European Court of Human Rights (ECHR) issued its ruling in which it found that local self-governments were generally entitled to liquidate dwellings of people who illegally inhabit municipal land; however, the Court also pointed out that responsible authorities had remained idle for several decades and practically tolerated the settlement’s existence. Since Bulgarian state administration organs did not even try to find a viable alternative housing solution, the Court rejected Bulgaria’s argument that the dwellings did not comply with health and safety regulations.

The ECHR argued that if certain land has been long inhabited by members of a disadvantaged community who now face the prospect of homelessness, the case cannot be judged the same way as routine cases of evicting individuals from illegally occupied property. Also, the Court pointed out that equality does not mean identical treatment regardless of existing disadvantage. The Court took into account the fact that the complainants were Roma who had been marginalized for a long time and therefore should not be treated equally to others. Although the Court admitted that government cannot provide housing to everyone, it emphasized its obligation to provide shelter at least to the most endangered population groups. All in all, the Court decided that forced eviction of the complainants and demolition of their dwellings would have violated their right to private and family life that is guaranteed by Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as “Convention”).

According to the constitution, national laws must be interpreted within the confines of international human rights documents such as the Convention. Therefore it remains questionable whether recent decisions of local self-governments in Vrútky and Batizovce to demolish Romani shacks and other dwellings were lawful with respect to internationally guaranteed human rights. According to available information, the local self-governments in question did not show any interest to provide alternative housing to their inhabitants who included the most endangered population groups in our society, i.e. Romani women and children.

Driving poor Roma out of their homes and onto the streets is by no means sporadic in recent months; on the contrary, it is becoming a disturbing

1 Anna Jurová, “Historický vývoj rómskych osád na Slovensku a problematika vlastníckych vzťahov k pôde (‘nelegálne osady’), [‘Historical Development of Romani Settlements in Slovakia and the Issue of Land Ownership (‘Illegal Settlements’)’], web magazine of the SAV Institute of Social Sciences in Košice No. 4/2002; available at: <http://saske.sk/cas/archiv/4-2002/jurova-st.html>

2 Ibid.

3 Iveta Radičová, “Rómovia na prahu transformácie” in Michal Vašečka (ed.),

Čačipen Pal o Roma – Súhrnná správa o Rómoch [A Global Report on the Roma], (Bratislava: Institute for Public Affairs, 2003) p. 86 and following.

4 *Yordanova et al vs. Bulgaria*, Complaint No. 25446/06; ruling of April 24, 2012.

and dangerous trend, especially because various groups of right-wing extremists are beginning to parasitize in it. Demolition of only homes of the poorest members of the unpopular minority is highly questionable, and not only in the legal sense, mostly because these people's chances to solve their housing situation in a legal manner often nears zero. This approach to the problem stands no chance to solve anything and has nothing to do with a decent democratic society.

A VIABLE ALTERNATIVE TO DEMOLISHING DWELLINGS ILLEGALLY BUILT BY POOR ROMA

Fortunately, not all municipalities in Slovakia have followed the path revived by local self-governments in Demeter, Žiar nad Hronom or most recently in Vrútky or Batizovce. Many chairpersons of local councils realized a long time ago that full-fledged future development of their municipalities was closely related to successful integration of the local Roma. They have successfully settled ownership rights pertaining to land (partly) in order to solve the housing situation of these poor communities, for instance by property exchange, land buy-outs or applying the institution of usucaption or real burden.⁵ These local

⁵ For further details on various possibilities and experience, please see Alexander Mušinka (ed.), *(Ne)legálne osady: Možnosti samospráv*

leaders understand that an inevitable precondition to this minority's integration is not only settling property ownership rights but also raising enough funds to infrastructure development, which often benefits the entire municipality.

It seems that a more substantial progress in this area requires stronger involvement on the part of central government; for instance, MP Peter Pollák (OĽaNO) is currently drafting a bill that seeks to facilitate land buy-outs by municipalities. But no matter what solutions are scouted, it should always pay out to listen to chairpersons of local councils who boast probably the best expertise in this area.

Last but not least, we should not forget about the basic principle of the rule of law, i.e. equality before the law. True, the number of illegal dwellings built by poor Roma is quite high in Slovakia; however, the problem of illegal construction equally concerns the more affluent social classes. Unlike the poor Roma, though, they dispose of sufficient social capital and ample financial means to be able to legalize their homes additionally in a more or less transparent manner. ■

a mechanizmy vysporiadania pozemkov v prostredí rómskych osídlení [(Il)legal Settlements: Possibilities of Self-Governments and Mechanisms of Settling Land Ownership in Romani Settlements], (Prešov: Vydavateľstvo Prešovskej Univerzity, 2012), p. 15.

SUPPORT OF UNDEMOCRATIC AND OPENLY DISCRIMINATORY POLICIES BECOMES DISTURBING

BY ELENA GALLOVÁ KRIGLEROVÁ

Building walls between the majority and the Roma, forced relocation of entire Romani communities that is becoming increasingly popular, demolition of Romani dwellings, 'buy-outs' of land by leaders of extreme-right groupings in order to "fix the Roma problem", meetings of citizens that are organized to highlight "maladjustment of social elements" – all these phenomena indicate growing tension within society.

The situation came to the head in June 2012 when a city police officer who was off duty at the time murdered three members of a Romani family and injured two more with an unregistered weapon. But even more disturbing than the horrid crime was the wave of reactions that immediately flooded the media, particularly social networks and Internet discussions. Within hours, the victims turned into offenders and many people openly demanded that more people take 'justice' in their own hands in a similar way. The media largely fuelled this atmosphere by constantly pointing out criminal history of the murdered Roma compared to that of the perpetrator that was unblemished before the crime. Politicians did not react to the situation until after three non-governmental organizations – namely the Centre for the Research of Ethnicity and Culture, the Romani Institute and the Slovak Institute for Mediation – had published an open letter urging them to take action.

The Centre for the Research of Ethnicity and Culture has long warned that the Roma continue to be viewed as a threat to the majority society in Slovakia. Practically every sociological survey carried out since 1989 documented Slovaks' negative attitudes toward them. The Roma are stigmatized across the Slovak society, regardless of age, education or socio-economic status. In this respect, Slovakia easily outclasses most countries with comparable (or even larger) Romani populations.

A new trend that has appeared in recent months is growing public support of undemocratic and restrictive measures with respect to minorities in general and the Roma in particular. In other words, it is not anymore about opinion poll respondents claiming that the Roma are maladjusted and pose a threat to the majority population. It is far more serious as people's negative attitudes to the Roma are beginning to turn into willingness to pursue or support actions that are overtly aimed against them. Such actions are typical of far-right groupings whose leaders often feel the urge to take in their own hands responsibility for bringing into line the Roma or whatever population group that is publicly perceived as a threat to society.

SURVEY ON THE SUPPORT OF RIGHT-WING EXTREMISM

That was one of the reasons why Open Society Foundation together with the Centre for the Research of Ethnicity and Culture decided in 2011 to conduct a survey titled *Public Opinion on Right-Wing Extremism*. Its principal goal was to examine Slovak society's responsiveness to extreme right-wing ideas and public support for far-right extremism groupings.

Generally speaking, extreme right-wing groupings are not very popular in Slovakia and nearly half of all Slovaks would even go as far as outlawing them. Many respondents share the opinion that these groupings should not be allowed to pursue their activities in public. They believe that the media should not inform on their activities at all (25% of respondents) and if so, then only on most important police clampdowns against them (40% of respondents). Many people are convinced that members of these groupings should be banned from holding public posts. More than three in five respondents (60%) said that they should not be judges, police officers, politicians or church officials; on the other hand, the respondents would not object as much to members of extreme right-wing groupings working as doctors or journalists.

In this context, the survey brought a surprising finding that rejection of extreme right-wing groupings by no means implies rejection of attitudes these groupings represent. A significant share of the Slovaks is partial to authoritarian tendencies and tends to agree with populist views. One in three respondents showed preparedness to support 'immediate solutions' as they agreed with the assertion that "If government is unable to secure order, people should do it themselves, even through the use of force". This is exactly how extreme right-wing groupings currently mobilize the general public. As the global economic crisis deepens, social cohesion will continue to crumble; in this situation, even small incidents between members of minorities and the majority may escalate into violent conflicts. The survey also revealed that the risk of sparking off such a conflict is relatively high in Slovakia.

BREEDING GROUND FOR RIGHT-WING EXTREMISM IS RELATIVELY RICH IN SLOVAKIA

In terms of supporting extreme right-wing ideas, Slovak society may be divided into three categories. The first category (approximately 8% of the

population) comprises people who can identify themselves with almost all presented ideas of right-wing extremism. This category is dominated by men, people with low education status and almost exclusively of Slovak nationality; most of them are potential voters of Smer-SD, SNS and HZDS.¹ This population segment clearly perceives growing cultural diversity as a negative phenomenon. People from this category prefer openly restrictive and even discriminatory policies with respect to minority members and foreigners. At the same time, these respondents are partial to undemocratic and authoritarian models of governance and tend to perceive the world as a place that is full of threats. They are prone to falling for populist views that allow them to apply their simplistic perception of the world.

The largest category (about 75% of the population) includes people who identify themselves with only some assertions that exemplify the breeding ground of right-wing extremism. These people perceive the world around them more democratically, do not show overt hostility to minorities and are not as partial to authoritarian tendencies; however, with respect to more 'explosive' issues such as policy on the Roma, minority rights of ethnic Hungarians or cultural and religious identity of Muslims they tend to side with the former category and object to any minority rights. This group is particularly risky during the periods of increasing social and ethnic tension because if it escalates into open conflicts they may become supportive of repressive measures. If they believe that government has failed in performing its roles, they may tend to endorse actions by individuals or groups that try to restore order on their own.

The final category (approximately 16% of the population) comprises people who are completely strange to extreme right-wing ideas. They perceive cultural diversity positively as an opportunity for social progress and further equal approach to minorities. People from this category maintain a critical distance from authorities and trust their social environment. They do not necessarily feel threatened by the presence of culturally different population groups.

MINORITIES AND FOREIGNERS ARE PERCEIVED AS A THREAT TO CULTURAL INTEGRITY OF THE SLOVAKS

Knowing the general public's perception of growing cultural diversity is very important to shaping and pursuing a fair minority policy in the future. In this context, the survey found out that despite a sizeable proportion of minority members, Slovakia's inhabitants continue to perceive their country strictly ethnocentrically as a country of Slovaks. That would of course be perfectly all right if they considered *all inhabitants* of Slovakia to be *Slovaks*; however, the qualitative part of the survey revealed that Slovakia's inhabitants are willing to view members of national minorities as Slovaks only if they are able to adapt completely to the cultural values of the majority (i.e. Slovak) society. They view the Slovaks as a statehood nation whose members have the prerogative to decide what rights (if any at all) the minorities shall enjoy.

1 The survey was carried out in 2011 when the Slovak National Party (SNS) still hung in parliament tooth and nail while the Movement for a Democratic Slovakia (HZDS) had been eliminated from parliament in the 2010 parliamentary elections.

Foreigners' ability to adapt to the majority implies surrendering any manifestations of their ethnic, religious or language identities. Displays of different cultural, religious or language identities are acceptable in the private domain at best; on the other hand, they have no place in the public domain as they might undermine the dominant Slovak identity. This goes for members of national minorities (especially ethnic Hungarians) but also for immigrants who are beginning to form new communities in Slovakia. The respondents were able to imagine smooth coexistence especially with foreigners from "culturally close" countries (i.e. especially from Western Europe). On the other hand, they perceive Islam as a strongly disturbing element of growing migration as they associate it with terrorism and view it as the historically greatest threat to Slovakia's cultural integrity.

MAJORITY SUPPORTS RESTRICTING AND CURTAILING OF MINORITY RIGHTS

The Slovaks' views on coexistence with traditional as well as new minorities are closely related to how they perceive the role of state in shaping policies with respect to these population groups. Here, the survey produced perhaps the most disturbing findings as it revealed Slovak inhabitants' very low acceptance of the concept of equal rights for all. Particularly baffling is the high support of various restrictive policies that border on overt discrimination or even go beyond it. For instance, almost three in four (75%) respondents completely or partially endorsed the assertion that "State should adopt measures aimed at reducing the birth rate of the Roma" and almost one in two respondents believed that Romani children should not be allowed to attend schools together with non-Romani ones. Similarly, half of all respondents believe that ethnic Hungarians should not be allowed to speak Hungarian in public and should not enjoy the right to govern affairs that directly concern them.

The respondents would welcome similarly restrictive measures with respect to foreigners. Over two in three of them (69%) endorsed the assertion that "It is not necessary for the state to adopt measures aimed at facilitating the Muslims' practicing of Islam in Slovakia". The idea that Muslims living in Slovakia should be allowed to build an Islamic centre was opposed even more fiercely. Two in five respondents (40%) said that Vietnamese businesses should be inspected more thoroughly than others.

Although sociological surveys in many countries indicate that about 10% of the population continuously tends to endorse concepts that suppress minority rights, it seems that their support is much higher in Slovakia. The point is that a significant share of the population is potentially hostile toward minorities in attitudes as well as in actions, particularly in the time of growing social tension, which is certainly the case in Slovakia. The media largely contribute to construing minorities as a threat. Political parties recently began to compete with each other in proposing restrictive and often overtly discriminatory measures with respect to the Roma. Unlike in the past, they even stopped bothering to hide it. A perfect example was a press conference by SDKÚ-DS Chairman Pavol Frešo regarding the issue of demolishing illegal Romani dwellings that was staged directly in a Romani settlement. Last but not least, public discussions on social networks and blogs seem to confirm the disturbing findings of our survey. ■

WHAT OPPRESSED NATION?

BY IVAN ŠIMKO

On May 17, 2012, the international conference in Vienna titled *Re-inventing Eastern Europe* featured Larry Wolff, author of the book of a similar name on the notion of Eastern Europe. Freely based on certain methods of post-colonial studies, the book is a classic among works that examined the "Western" concept of "the East". In his lecture, Wolff tried to elaborate on the issue after 20 years; the final outcome was somewhat disturbing for the speaker as well as for me as a listener.

The "re-inventing" of Eastern Europe stands for composing a simplified image of a region with different culture and political relations. This image subsequently affects cultural stereotypes that are reflected in art as

well as through the powers' policies with respect to the region. Originally identified with Poland, Hungary and Russia (i.e. countries on the border of the Christian world), the East replaced the North as a more backward but culturally related part of Europe approximately in the 18th century. This geographic circumscription was further strengthened by the growth of Russia in the 19th century, the fall of the Ottoman Empire early in the 20th century and eventually by division of Europe into blocs following World War II.¹ Within 20 years of the book's publication, an im-

1 L. Wolff, *Inventing Eastern Europe* (Stanford: Stanford University Press, 1996).

portant segment of the traditional Eastern Europe – including Slovakia – became part of the European Union and the North Atlantic Alliance, which undermined the actual fundament of this division if one can say so. On the other hand, the age-old division remained preserved in various other forms, for instance in rhetoric on “the new Europe”, in specialized CEE (i.e. Central and Eastern European) studies but also in lingering popular notions of the East as a culturally more backward section of Europe, a source of cheap labour, etc.

Wolff was particularly critical of two points. First, he argued that the negative perception of “the East” has not only survived but has been adopted by the people who live there. According to him, we surrender “our” national identities and take over those that are more popular or acceptable in the West.

Wolff was even harsher in his criticism of initial reactions to Putin’s rise. Wolff argued that Putin had emulated Western ideals in terms of appearance, behaviour and elections. He impressed as the “modern Slav” that is rooted in European culture, regardless of the policies he pursued. According to Wolff, Putin calculated with support from the West and capitalized on it at least in his early years, both at home thanks to adopting Western image of a decent politician and abroad when he needed his partners to turn a blind eye to the war in Chechnya. Now, at the pinnacle of his power, he is free to resume “his own” style of governance.

Putin’s story is particularly interesting to Slovakia. The new culture minister’s early reactions to the fire that destroyed the Krásna Hôrka castle² or the new prime minister’s statements regarding the so-called Roma issue³ make an impression that we do not even need to further cultural diversity; on the contrary, we have to further it because it is a European trend and a precondition to mutual cooperation. This way the values such as respecting human dignity of others or their right to cultural self-determination are made relative and presented as excessive influence of activists who studied abroad and continue to be paid from there or as political concessions between our country and the EU. Not only are these values presented as foreign “imports” but are even juxtaposed to

2 Please see <http://roznava.korzar.sme.sk/c/6293781/hrad-krasna-horka-znicil-poziar.html>, March 10, 2012.

3 Please see, for instance, <http://www.sme.sk/c/6322987/neslusnym-namiesto-davky-daju-potravinu.html>, April 1, 2012.

domestic culture or national interests. They are treated as compromise solutions that allow the country to access European structural funds and remain credible in the eyes of the investors. At the same time, the degree of necessary “concessions” to the West remains unclear so as not to damage the idol of national interests. Like Putin, main actors of these scandals also create an impression that it is time for Brussels to turn a blind eye to “our” solutions. After all, “they” have no clue of the way we do things around here.

The argumentation of actors in these cases may be reduced to nationalistic populism or securitization of minority policy at the time of crisis;⁴ however, the difference between our national and Western values is presented uncritically. The upswing of nationalism in reaction to the country’s integration to supranational groupings is a natural phenomenon that feeds on reducing the country’s autonomy in various areas of public policy. But nationalism becomes incoherent and unfair as it abuses a dominant position with respect to minorities on the one hand and tries to play the role of oppressed minority in the broader EU context on the other, as if minority rights were completely lacking from culture of the nation that was in the minority position not so long ago. Only critical reflection of development of nationalism could perhaps detect the causes of this flaw and simultaneously emphasize ideological similarity between the country and the greater whole to which it integrates. On the other hand, the argumentation that is based on the country’s commitments with respect to these supranational groupings strengthens nationalistic sentiments and augments distance from the values that, after all, were once constitutive for the country.

While criticism of the concept of homogeneous Eastern Europe lies at its heart, Wolff’s work is simultaneously inclined to understanding individual Eastern European nations as culturally homogeneous wholes with their specific sets of values that remain incomprehensible to the “outsider”. Perhaps unwittingly, Wolff himself forwards the concept of single-nation states that are isolated from traditions of universal thought and deviates from the danger posed by uncritical nationalism. ■

4 Unfortunately, using this rhetoric in the political discourse in Slovakia is relatively standard. For further examples of securitization on the ethnic basis, please see CVEK’s annual report *Minority Policy in Slovakia in 2011*; available at: <http://cvek.sk/main.php?p=akclanok&lang=sk&lange=sk&id=264>, May 30, 2012, p.120.

DESPERATE TEACHERS AND REJECTED ROMANI CHILDREN FROM DOBŠINÁ

BY ELENA GALLOVÁ KRIGLEROVÁ

A strongly emotional open letter by teachers from Dobšiná published in June 2012 has met with unexpected response of the general public. Teachers’ desperate appeal was perceived as a distress call to improve conditions they work in. To a certain degree, their desperation is not difficult to understand. In education system currently in place, teachers are forced to shoulder a disproportionate burden of educating poor Romani children, a problem that has been neglected for a long time.

Until this point, teachers’ dissatisfaction may be considered justified and worth noticing. Much more problematic is who they seem to blame for the situation at hand and what kind of changes they are actually calling for. Apparently, the source of all their trouble is Romani children themselves who according to the teachers are maladjusted and arrogant, lack basic hygienic habits and show absolutely no interest in education.

Such perception of Romani children is by no means sporadic at Slovak schools, which was clearly documented by a survey on inclusive education the Centre for the Research of Ethnicity and Culture carried out in 2012. Most schools in Slovakia *a priori* view Romani children as a problem that needs to be “done away with”. And this is the stumbling block of the entire initiative.

The teachers from Dobšiná did not ask government to improve their conditions to educate children with specific educational needs. Their statement that local Romani children refuse to go to school was not followed by a question of what can a teacher do to make school and learning more attractive to children. They did not ask what they should do to make children enjoy going to school. Instead, the teachers would like to see financial and other sanctions for children’s parents. They call for greater repression and “correcting” those who according to them make their job unbearable. In other words, they cry out to rescue themselves instead of rescuing the children for whom education is designed in the first place.

What they apparently seem to have forgotten is that compulsory school attendance is primarily the means to facilitate exercising children’s right to education, as opposed to a repressive and coercive institution. In order to exercise this right, children must find education appealing, interesting and of good quality. Many experts (e.g. those from the Good School project) have long warned that education system in its current form is far from responding to the needs of modern children. In the case of Romani children, one also needs to take into account the factors of poverty and symbolic exclusion that make the majority’s education system completely strange to these children.

Had the children read the open letter written by their teachers, they would have certainly felt unwelcome at their school. Who knows, perhaps an open letter written by the pupils of the Dobšiná elementary school would be even more interesting than the open letter by Dobšiná teachers who seem to have forgotten that education is a form of service, which is derived from “serving” – serving the children for whom it is designed in the first place.

The teachers’ appeal to the Ministry of Education was properly addressed, no doubt about it. All previously implemented education system reforms have only introduced cosmetic facelifts that increased schools’ administrative burden rather than reform their values and phi-

losophy. In education system’s current condition, any reform measures will merely conserve frustration because they cannot lead to desirable changes.

Last but not least, one must not forget that teachers are professionals who chose their profession by themselves. They are free to trade schools or even change profession if they find conditions at their school unbearable. On the other hand, the local Romani children do not have much choice as to what school they attend. If they are rejected there and blamed for conditions they live in, they must adapt to it, otherwise they will face even stronger repression and rejection. School attendance remains compulsory to them, regardless of the school they attend. ■

PERCEPTIONS OF THE ROMA AND SHAPING OF PUBLIC POLICIES

A REPORT ON RESEARCH FINDINGS

BY LUBOŠ KOVÁCS & MARTIN KANOVSKÝ

Most surveys examining the Roma focus primarily on segregated Romani communities although they are home to only a minority of the country’s Romani population. Our field research whose basic findings are summed up in the following article¹ centred on integrated Roma who live in some sort of a ‘grey zone’ of social flats, i.e. on the thin borderline between complete integration and complete segregation. They form rather large and quite vulnerable groups whose members do not inhabit segregated settlements, keep family bonds, maintain social contacts and even have labour experience; however, they found themselves in the social interface from whence there are essentially but three ways out: first, falling to the rock bottom and moving to a segregated community; second, struggling hard to extricate themselves from the ‘temporary’ social interface back to the original (i.e. integrated) environment; finally, endless surviving in social flats without any prospects.

LOCATION AND METHODOLOGY OF THE SURVEY

The field research was carried out in the town of Košice, systematically observing residents of one block of social flats between July and August 2010 and between July and August 2011.

The Košice Housing Association administers several apartment houses with social flats. Our respondents inhabited one apartment house comprising 90 social flats located at Sever housing estate; of them, 55 were single-room flats and 35 were double-room flats.

The Generally Binding Regulation of the Town of Košice No. 61/2002 relatively precisely circumscribes eligible applicants for social flats. The monthly income of persons who apply for social flats is evaluated jointly and must not exceed triple subsistence level. The applicants must not own other flats or real estate and must not have lost possession of their previous flat as the result of their own fault. A hard and fast eligibility condition for social flat applicants is uninterrupted permanent residence in Košice for at least five years. The tenancy contract with a new applicant is made for a period of three years; upon its expiration it may be renewed, usually for one year, depending on abiding by tenancy rules. The tenants who do not abide by tenancy rules may be evicted based on

a court order and are not entitled to replacement accommodation. For these reasons it is impossible to state an apartment house with social flats as one’s permanent address.

Besides the official policy of allotting social flats, there is a whole range of unofficial measures that may be applied by clerks in order to facilitate integration of socially excluded population. These measures depend primarily on impromptu inspections by welfare officers. Based on their evaluation of applicants’ existing housing standard, applicants are allotted social flats according to certain unofficial rules. Welfare officers categorize applicants according to unwritten social standards (in their own words, according to “the degree of social integration”). They prefer families with three or fewer children in which at least one member is employed. The applicants who rank the highest on this social standard chart are allotted flats in apartment houses with fewer tenants, higher housing standard and higher rent, for instance smaller apartment houses at Herlianska or Adlerova Street. The applicants whose appraised social standard is lower are allotted flats in apartment houses at Sládkovičova or Popradská Street.

After several inspections and consultations with applicable case-worker, the housing department clerk may decide to inform a tenant of a social flat at Sládkovičova Street that there is a vacant social flat available at Popradská or Herlianska Street. The tenant may subsequently file an application. Within several years, applicants thus have a chance to work their way up from a segregated community such as the Luník IX housing project or the Demeter settlement to an apartment house at Herlianska Street with a higher housing standard. Naturally, as applicants climb up this ‘social ladder’ they see their rent increase gradually. The basic effect of this housing policy is a more or less compact socio-economic profile of individual apartment house tenants, which is partially revealed by the housing standard at particular localities.

The apartment house at Sládkovičova Street accommodates mostly families with children, some of them incomplete; the parents’ age fluctuates between 30 and 50. A vast majority of tenants hail from Košice where they have parents or other relatives and are trying (some of them briefly, others in the long term) to become independent and start up their own household. All of them have ample experience with living in lodgings around the town where they also maintain their social networks. All tenants have been on and off the labour market and some of them even have a certain level of qualification. Most of them are members of socially weaker population groups who cannot afford to rent higher-standard flats or have been evaluated by welfare officers as ineligible to rent such flats. All similar characteristics directly affect their integration ambitions and strategies.

1 This brief summary is far from presenting all the findings or complex overview of methodology, coding and analyzing data and figures; that will be the goal of the monograph that is being currently prepared. The basic purpose of this article is to provide elementary information on survey findings. It is important to note that socio-anthropological research has its specifics. Most importantly, it is based on a long-term stay in surveyed locality (in our case twice by two months without interruption) that includes a great number of carefully prepared in-depth interviews and participative observations. In other words, this survey was not based on notes made during a visit that took several days.

Of course, one should note that these apartment houses are by no means inhabited exclusively by Roma as the share of tenants who belong to the majority is always relatively high; in social flats of the lowest standard it is about 20% while in social flats of higher standard it is substantially higher, fluctuating between 50% and 70%.

SELECTED FINDINGS

Members of the majority as well as integrated Roma have developed a rather coherent set of notions that portray the Romani minority as a homogeneous population group that differs from the majority population by concrete cultural, social or economic characteristics. Both groups tend to attribute negative connotation to these characteristics, which after certain simplification serves as an argument to describe mutual relations between these two (abstract) groups as problematic or even conflicting and driven by cultural, social or economic antagonisms, this despite the fact that many individuals from the majority and the minority communicate and interact with each other without any problems on an everyday basis.

In the eyes of majority members and many integrated Roma, this abstractly defined Romani minority is a marginal and problematic group whose members remain on the edge of society in the long term, mostly as a result of this distorted perception of mutual relations with the majority or their internal relations and characteristics. Many Roma subsequently identify themselves with these negative characteristics, sharing them and passing them onto other Roma. On the one hand, they proudly declare their identity, especially with respect to their fabled origin, legendary temperament or cultural identity; on the other hand, they fiercely deny it, particularly when it comes to social exclusion, untidiness or maladjustment. It is not rare to hear them say: "We're not like that, we're not some Gypsies."

To majority respondents, regular interaction with integrated members of the Romani minority serves empirical evidence about these individuals' essential dissimilarity from generally shared notions about the abstract Romani minority. These respondents truly realize the difference between their (mostly stereotypical) concepts of the abstract Romani minority and its integrated members. Unfortunately, they are unable to reflect these discrepancies back into their perception in a way that would minimize stereotypical notions of the abstract Romani group; quite the contrary, since stereotypical characteristics applicable to the abstract Romani group do not apply to these Romani individuals they are automatically extracted from the problematic category. In other words, they are not viewed as members of the abstract Romani group anymore.

Integrated Roma are generally considered very untypical representatives of the Romani minority; even more frequently, they are not considered members of the Romani minority at all. They may be formally referred to as Roma but what really matters is their imaginary membership of the majority.

This is a very interesting finding because social sciences as well as integration policies automatically assume that everyday interactions between majority and minority members minimize stereotypes while leaving intact the categorization itself, i.e. individuals' affiliation to the abstract group. In other words, something along the lines of: "The Roma are different but not inferior." As if there was a notion that it is possible to acknowledge dissimilarity of a segregated population group and simultaneously not attribute stereotypical characteristics to those of its members who are integrated.

But it turns out that this is not the case and that social interactions have a completely different impact on cognitive categorization. The stereotypical notions about the abstract Romani group continue to apply in full, mostly based on stereotypical chatter and scrappy information from various sources – direct, indirect, media or other. It is these fully preserved stereotypical notions that perception of integrated Romani minority members is juxtaposed to; however, people's perception of this abstract group usually lacks any reflection whatsoever, for instance in the form of personal experience.

For most people, personal experience with members of the abstract group usually amounts to one-time chance meetings in a broader environment and attributing stereotypical characteristics based on the evaluation of the beholder. This type of contacts does not provide adequate basis to recognize these individuals' exact ethnic, racial or national affiliation; at best, it may be haphazardly estimated but mostly remains completely unknown. True, there is a negative correlation between the degree of Roma integration and application of stereotypes in majority members' perception of them; however, the concrete cognitive, communicative and social way of applying them has to do with non-application of the entire category as opposed to non-application of stereotypes.

It turns out that the link between stereotypes and social categorization is so strong that it is virtually impossible to break. Non-application of stereotypes to concrete persons may only be achieved at the price of non-application of the entire category. This goes not only for members of the majority but also for integrated members of the Romani minority who gave identical answers.

No matter how fictitious, representations with respect to ethnicity or the position of the Roma in social hierarchy are perceived not as subjective impressions but as objective facts that influence judgement of members of the majority as well as the Romani minority. These representations must have spread across the locality out of equally objective social and cultural reasons. Throughout its existence, every locality has undergone multiple social changes that have affected not only social relations between the majority and the Romani minority but also judgement of both groups' members.

We are far from asserting with complete certainty that concrete notions of the Romani minority are spread universally; that only goes for basic principles of cognitive reasoning. We rather believe that similarities can be found in localities with equal or similar historical and political background in which concrete macro-political and micro-political measures may directly affect dissemination of concrete social representations as well as in those localities where mutual relations between the majority and the Romani minority work on a more or less equal basis.

This opens a great window of opportunity to examine historical and political changes in perception of the Roma by the majority and the Romani minority. It is very likely that a great deal of responsibility for the content of these notions as well as for concrete social practices in concrete localities may be attributed to official policies that present the abstract group and its behavioural patterns in an expedient way, without deliberate intentions to spread a concrete type of representations about them.

The same goes for policies on the micro-level or policies pursued by organizations of the Romani minority in certain countries. Examples of such policies on Slovakia's territory may include, for instance, assimilation policies from the communist era that essentially introduced perception of the Roma as a social (i.e. as opposed to cultural) group since it presented allegiance to Romani customs and/or aspirations as a hallmark inherited from the period of capitalism that would be possible to eliminate by accepting the working class's lifestyle.

In contrast to this policy, governments and non-governmental organizations in Slovakia's most recent history pursued policies that emphasized Romani culture or identity. Similarly, there have been deliberate or unintentional attempts to explain integration problems of the Romani minority by its fundamental cultural dissimilarity while marginalizing socio-economic factors. That is one step short of attributing problems caused by inadequate socio-economic conditions to cultural specifics of the Romani minority, which is a very dangerous strategy as it may lead to seeking some deeply-rooted and mysterious factors that are almost impossible to eliminate and, consequently, to resignation to social solutions. All these factors are verifiably and undoubtedly reflected in essential notions of the hallmarks that determine this population group. ■

OPEN LETTER TO THE GOVERNMENT OFFICIALS REGARDING ESCALATING TENSIONS AND VIOLENT ACTIONS AGAINST THE ROMA

BY CVEK

The Centre for the Research of Ethnicity and Culture together with the Roma Institute and the Slovak Institute for Mediation published an open letter to government officials (please read below) with respect to extremely hateful reactions of the general public in the aftermath of the tragic incident in Hurbanovo where a police officer off duty shot three Roma dead and severely injured two more using an unregistered weapon. Regardless of the perpetrator's motives, we believe that some reactions publicly endorsing or even celebrating this hideous crime urgently call for strict condemnation. For these reasons, we appreciate the official statement by László A. Nagy, recently appointed Government Plenipotentiary for Minorities who expressed indignation over public reactions with a strongly racist undertone by certain population groups.¹

Open letter to government officials regarding escalating tension, violent actions against the Roma, hateful reactions of the general public and alarming manifestations of ethnic intolerance in the aftermath of recent events in Hurbanovo

In the context of the recent assault on a Romani family in Hurbanovo, the **Centre for the Research of Ethnicity and Culture, Roma Institute and the Slovak Institute for Mediation demand the president of the Slovak Republic, the Slovak Government, the National Council of the Slovak Republic and other public administration organs to:**

1. Immediately condemn ethnic intolerance that was exposed by the tragedy;
2. Refrain from adopting repressive anti-Roma measures;
3. Adopt pro-active measures aimed at eliminating growing intolerance of the Roma;
4. Oversee thorough investigation of the assault on the Romani family in Hurbanovo.

In the long term, sociological surveys have warned about deeply rooted prejudices and intolerance with respect to members of the Romani minority. According to a representative sociological survey carried out in 2010, almost two in three respondents endorsed overtly discriminatory and even genocidal anti-Romani measures. A vast majority of people's reactions in the mass media and on the Internet to the Hurbanovo incident that left behind five Romani victims confirmed this alarming degree of ethnic intolerance.

In the light of growing intolerance with respect to the Roma it is not surprising that gaining popularity are extreme right-wing movements that are beginning to replace government and encouraged by silent endorsement of a significant part of the population they abuse the law to forward radical solutions and individual acts of hatred aimed against the Roma. The history of the 20th century teaches us that the fear that has seized Romani settlements today may tomorrow bring curtailment of freedoms also for those who now believe they are "more human" than their Romani neighbours in decrepit shacks.

A modern constitutional democracy that subscribes to respecting human dignity of every person must not tolerate the situation in which some of its inhabitants are humiliated and exposed to physical and verbal displays of intolerance on a daily basis. Each of the previous administrations failed to adopt and implement policies that would allow some members of the Romani minority extricate themselves from the trap of dependence and

exclusion. Instead of building society based on human rights principles, public officials silently tolerate segregation in education and building of walls designed to segregate poor Romani communities. Regardless of international human rights documents and commitments that ensue from them, chairpersons of local councils order demolition of Romani dwellings and drive to the streets the most vulnerable population groups – Romani women and children.

We hereby demand Mr. President to monitor thorough investigation of the assault on the Romani family in Hurbanovo by applicable organs and together with other government officials condemn hateful public reactions to the Hurbanovo incident.

We hereby demand Mr. Prime Minister, members of the Slovak Government and members of the National Council of the Slovak Republic to emphatically condemn ethnic intolerance, abandon populist rhetoric with respect to the Roma and adopt a complex approach to poor Romani communities in compliance with complex human and civil rights that also apply to the poorest and most vulnerable segment of Slovakia's population.

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¹ Please see <http://www.vlada.gov.sk/vyhlasenie-splnomocnenca-vlady-sr-pre-narodnostne-mensiny-v-suvvislosti-s-tragickou-udalostou-v-hurbanove/>