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Equality and justice on the sidelines: Comparative report on discrimination against Roma and their access to justice in Slovakia and Slovenia

Štefan Ivanco, Jerica Lorenci, Andrea Spitálszky





Cover Image: Kristína (centre), sits among a group of fellow Slovakian Roma women activists during a networking meeting in Zemplínska Šírava, Slovakia. The event also included Roma women activists from the Czech Republic. Credit: Maja Bodnárová / For Poradňa pre občianske a ľudské práva

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About the organizations

Minority Rights Group Europe (MRGE) is registered as a not-for-profit company under Hungarian Law. Based in Budapest since 1996, MRGE is the European regional partner of Minority Rights Group International (MRGI), with the aim of promoting and protecting the rights of minorities and indigenous peoples across Europe and Central Asia. MRGE does this through capacity building, international advocacy, media advocacy and networking.

Center for Civil and Human Rights (Poradňa pre

občianske a ľudské práva) The Center for Civil and Human Rights (Poradňa) is a Slovak non-governmental organization. Since 2002 it has addressed discrimination against Roma in Slovakia in various areas of public life. It has also been active in the protection of reproductive rights of Roma women and protection of Roma from police ill-treatment. Poradňa pursues its mission by human rights monitoring, strategic litigation and advocacy activities. It closely links its work with extensive cooperation with many local Roma activists, community engagement with Roma women, and support to Roma communities in pursuing their rights.

EPEKA Slovenia is an association and social enterprise established in 2008 and is part of the wider international EPEKA Network. The organization focuses on (non-formal) education, social inclusion, arts, ecology and other social issues. Since its inception the members of EPEKA have worked closely with the Roma community, implementing local, national and international projects aimed at strengthening the competences of the Roma community and promoting cooperation between the Roma community and the majority population. In 2014, EPEKA opened Romani kafenava – the first Roma restaurant in the European Union operating on social entrepreneurship principles.

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Key findings

Key findings	
<ul style="list-style-type: none">• Despite widespread and documented discrimination against Roma in Slovakia and Slovenia, Roma are often hesitant to report these cases to the respective countries' equality bodies.	<ul style="list-style-type: none">• Certain aspects of the functioning of the respective national equality bodies were criticized by legal experts in both countries.
<ul style="list-style-type: none">• This reluctance is because they are not aware such bodies exist or feel resignation that their situation will not change, or out of fear of reprisals.	<ul style="list-style-type: none">• The recently adopted national Roma strategies are in line with the EU Roma Strategic Framework, but the two governments must ensure funding for their proper implementation.
<ul style="list-style-type: none">• Although both countries have anti-discrimination legislation in place in line with the European Union (EU) Racial Equality Directive, implementation of these legal protections remains poor. Even those few cases that reach the judicial system are often dismissed or racial discrimination is not found, while in other cases Roma applicants withdraw from the procedures before they end.	

Executive summary

This report provides an overview of the current scope of discrimination against Roma, including women, their lived experience and access to justice in Slovakia and Slovenia. It is based on a combination of desk research and empirical study, namely a series of semi-structured interviews conducted with different stakeholders in both countries.

Roma face widespread discrimination in various areas of their lives (including housing, education, employment, health care, police abuse and ethnic profiling) from an early age in both countries, driven by persistent negative attitudes among the majority population towards Roma. Roma women often face multiple and intersectional discrimination based on their ethnicity and gender in both countries. The Covid-19 pandemic also amplified ongoing shortcomings in the protection of Roma rights. Anti-gypsyism and deep-rooted stereotypes associated with the Roma community continue to hamper their inclusion.

As members of the European Union (EU), both countries have anti-discrimination legislation in place and an established equality body in compliance with the EU Racial Equality Directive. In Slovakia, the Act on Equal Treatment in Certain Areas and Protection against Discrimination (Anti-Discrimination Act) effectively transposed the EU anti-discrimination directives, however, its effective implementation through judicial practice has continuously fallen short, which hinders effective access to justice in this area. Similarly, in Slovenia, legal experts consider the Protection Against Discrimination Act adequate, but they stress that lawyers' knowledge could be further developed by organizing seminars and training events, studying the literature and case law, raising awareness and involving them in projects.

Roma interviewees in both countries acknowledged the existence of widespread discrimination. Some of them had taken legal action, but they did not know of other Roma victims of discrimination who had reported their cases to the equality body. Only a few respondents knew about the existence of the national equality body in both countries. This is due to the perception that nothing will change despite their best efforts, that no one is actively working in this area, and that if Roma report discrimination, they will face reprisals. On the other hand, many Roma did not necessarily know what constitutes discrimination and were

unaware of its different forms. This suggests that the Roma interviewed as part of this report did not associate certain behaviours with discrimination, nor were they aware of mechanisms to report instances of discrimination and the availability of legal assistance. Those Roma who knew about a non-governmental organization (NGO) or institution that they can turn to were more willing to take legal action. Despite a pessimistic view taken by interviewees in both countries, particularly given their scepticism surrounding the possibility of positive change for Roma people, they all recognized the importance of pursuing Roma rights and reporting more cases of discrimination.

The number of cases of discrimination against Roma resolved by courts remains very low in both countries. The Slovak equality body, the Slovak National Centre for Human Rights (SNCHR) was criticized by NGOs and international human rights bodies for its poor performance and lack of independence. Similarly, in Slovenia, legal experts think that the work of the Advocate of the Principle of Equality (APE – the equality body) could be further developed by promoting it in the media, while the proper implementation of the opinions and recommendations of the APE would prevent further breaches.

The national Roma strategies that were adopted in line with the EU Roma Strategic Framework for Equality, Inclusion and Participation 2020–2030 are the key government strategic policy documents in this area in both countries. In Slovakia, according to the first Action Plan, the government is largely dependent on EU funds. It remains questionable whether the elaborated measures and funding allocated for their implementation will be sufficient to start effectively disrupting widespread structural discrimination. It is essential that the authorities are also committed to investing sufficient funds from the state budget in the long term. In Slovenia, the National Programme of Action for Roma is designed in such a way that the achievement of the objectives is realistic and verifiable, as each of the key and subordinate objectives includes impact indicators, which will be used to verify the achievement of the objectives. In both countries there are other relevant policies at national and local level that aim to address discrimination against Roma in certain areas, such as education or intersectional discrimination against Roma women.

1 Research aims and methodology

This report is the result of research conducted in the framework of the PRESS project¹ coordinated by Minority Rights Group Europe² with the participation of two partners – the Center for Civil and Human Rights (Poradňa)³ in Slovakia and EPEKA Association⁴ in Slovenia. The aim of the research was to map the current scope of discrimination against Roma, especially Roma women, and to better understand why this community has no access to justice in Slovenia and Slovakia.

In both countries, a series of semi-structured interviews was conducted with different groups in June and July 2022. The qualitative research in Slovakia was conducted by the Center for Civil and Human Rights ('the Center'). It consisted of 31 semi-structured interviews with Roma activists (21 Roma women and 10 Roma men) living in 18 selected communities in the Prešov and Košice regions where instances of discrimination were documented in the past. In addition, some of these activists provided relevant information beyond their own community, identifying broader issues of discrimination. The Center strongly relied on its ongoing and extensive experience in the monitoring of Roma rights and on already established contacts with many Roma activists living near or directly in the communities who monitor the protection of Roma rights in their localities. Particular focus was given to approaching Roma women activists to document the current instances of intersectional discrimination based on ethnicity and gender. The interviews with the activists were carried out either via video call or in person. These interviews were supplemented by five additional interviews with selected legal experts (including an executive representative of the

Slovak equality body) focusing on the implementation of anti-discrimination legislation, which aimed to gather current perspectives on the shortcomings of its implementation and barriers to access to justice in cases of discrimination.

In Slovenia, the qualitative part of the research was carried out by representatives of EPEKA Association and by representatives of the Association for the Integration of Roma Women Loli Luludi, who are in daily contact with the Roma community through their work. All semi-structured interviews were conducted in the presence of a Roma community member, who assisted with translation when necessary. Fifty Roma individuals were interviewed (25 women and 25 men). 70 per cent of these were residents of Maribor, and were interviewed face-to-face. The remaining 30 per cent of the interviewees were from Prekmurje, Dolenjska and Ljubljana, and they were interviewed online. In addition, 17 semi-structured interviews were conducted with seven representatives of civil society organizations, three Roma activists and seven lawyers. In order to obtain information on the majority population's views and perceptions about Roma, an online questionnaire was prepared that was completed by 18 respondents.

The empirical research was completed with a review of the findings of the existing research data from previous years. The aim of this report is to summarize the findings of the empirical and desk research and to provide a comparative overview of the different fields of discrimination against Roma and their access to justice in Slovakia and Slovenia.

2 The Roma population in Slovakia and Slovenia

	Slovakia	Slovenia
Size of Roma population	<p>The Slovak Republic has 5.45 million inhabitants and in addition to the ethnic Slovak majority, a wide range of minority groups live in the country. Roma constitute the second largest ethnic group in the country after Hungarians. According to the last census in 2021, 67,179 people declared themselves as Roma (1.23 per cent of the population).⁵ The most recent extensive research mapping the Roma population in Slovakia initiated at the government level – <i>The Atlas of Roma Communities 2019 (Atlas)</i> – found that there were approximately 417,000 (7.65 per cent) Roma living in 825 municipalities. The Atlas estimates that there are 450,000 (8.25 per cent) people of Roma ethnicity in Slovakia (not all localities with Roma are covered in the Atlas).⁶ The considerable difference in numbers resulted from the different methodology of the Atlas, where data is based on perceived ethnicity attributed to people in the research. This estimate is widely used in Roma-related policy discussions.</p>	<p>According to the 2002 census, the number of Roma in Slovenia is 3,246 (0.1 per cent of the population). Since 2002, the ethnicity of the population has not been recorded in the censuses, therefore there is no up-to-date official data on the number of Roma in Slovenia. Research conducted by the Institute of Social Welfare of the Republic of Slovenia in 2014 indicates that there are 11,700 (0.5 per cent) Roma living in Slovenia, but according to estimates by Roma activists and other stakeholders, this figure is even higher today.⁷</p>
Regions with highest Roma population	<p>Data from the Atlas shows that the country's Roma population is dispersed across all regions of Slovakia, but that the majority of them live in the eastern part of the country (Prešov and Košice self-governing regions).⁸ Approximately 300,000 Roma live in concentrated communities, of whom 56,000 live outside villages, 151,000 on the outskirts of villages and 129,000 within villages. The remaining 117,000 Roma live integrated among the majority population.⁹ Living conditions in Roma communities vary, but generally are considerably worse in comparison to the majority population.¹⁰</p>	<p>Autochthonous, i.e. Roma who have lived in Slovenia for a long time, have lived in Prekmurje, Dolenjska, Bela krajina and Posavje while members of the Roma community who settled in Slovenia in the late 1960s, mainly from areas of former Yugoslavia, live in major cities such as Maribor, Velenje, Ljubljana, Celje, Jesenice and Radovljica. According to the 2002 census, the places with the highest number of officially identified Roma are Maribor (613), Novo mesto (562), Murska Sobota (439), Ljubljana (218), Puconci (137), Kočevje (127), Šentjernej (98), Metlika (90), Lendava/Lendva (86), Tišina (86) and Črnomelj (85).¹¹</p>
Language used by Roma	<p>The preferred language of communication in almost half (47 per cent) of the Roma communities is Romani. In 35 per cent of communities, it is Slovak and in 18 per cent Hungarian, mostly in the south of the country. Roma communities very often use the language of the local majority, and their language assimilation depends very much on their proximity to the majority.¹²</p>	<p>In Slovenia, the Romani language is widely spoken among the Roma, but different dialects are present in different geographical areas, which limits communication in Romani between members of the Roma community. In 2021, on the occasion of the World Day of the Roma Language, the Roma community reiterated the need to include the learning of Romani in formal education systems, at least on a voluntary basis, in order to promote the preservation of the Roma language and cultural heritage among Roma children and adolescents.¹³</p>

It can be observed that in both countries, the official number of Roma registered through the national census is significantly lower than data provided by other research sources. This discrepancy is strongly affected by the fact

that many individuals do not wish to openly declare themselves as Roma, usually out of fear of stigmatization and other negative consequences.¹⁴

3 Main areas of discrimination against Roma in Slovakia and Slovenia

In both countries, ongoing discrimination against and exclusion of Roma is driven by widespread negative attitudes among the majority population towards this minority group. In Slovenia, the motivations behind these attitudes were identified through semi-structured interviews with representatives of the Roma community and through an online survey with members of the majority population, as well as through an analysis of existing sources. Out of the 50 Roma interviewed, only 11 stated that they had genuine friendships or family relations with members of the majority population, while the rest had contact with the majority population mainly on an official basis. The interviewees believed that discrimination by the majority population is based on stereotypes and ignorance of Roma cultural heritage. This lack of interaction is also due to the visible spatial segregation between Roma and the majority population. Stereotypes associated with the Roma community are still present as the members of the majority population often describe Roma as lazy, uneducated, traditional and engaged in criminal activity, and do not see any reason to have personal contact with them. One example of discrimination against the Roma community were the protests in the Maribor area when the first Roma restaurant in Slovenia was opened in 2013.¹⁵ However, the lack of interaction between Roma and the majority population is a two-way phenomenon as members of the Roma community also have certain stereotypes and mistrust of the majority population as a result of their own negative experiences.

The European Agency for Fundamental Rights (FRA) concluded in 2018 that the most severe forms of anti-gypsyism are present in a range of countries, including Slovakia, and continue to hamper Roma inclusion.¹⁶ The environment in this regard has not fundamentally changed in Slovakia over recent years, as is evident from the fact that the current Slovak government acknowledges that anti-Roma racism exists in society and efforts for its prevention have been outlined in the current Roma inclusion strategy 2030.¹⁷

In Slovenia, out of 50 Roma interviewed, 39 have contact with the majority population only on an official basis.

In Slovakia, 80 per cent of respondents in a research study agreed with the statement that Roma enjoy undeserved benefits and abuse the social system, while almost two thirds of the respondents had openly negative stereotypes about the Roma.¹⁸

In Slovakia, Roma activists reported discrimination against Roma to be most common in a range of areas, depending on what they subjectively perceive as the most problematic in their neighbourhood or region, and they often linked it to concrete examples including health care (particularly mentioned by women activists), employment and access to public services. A few of them considered that there was less discrimination against Roma or that it was manifested in a covert fashion.

'You know, people still think that we don't want to work, that we play violins and that our women walk around in long colourful skirts. We often face discrimination in the shops too; the salesmen follow us much more than they follow others and watch every move of ours, when we shop like any other normal person.'

Roma man from Slovenia

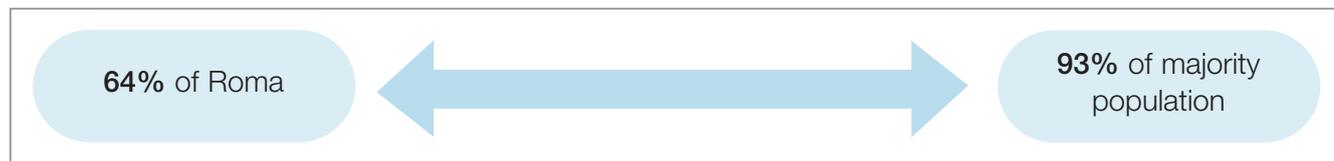
Housing

Inadequate housing and lack of access to safe drinking water, electricity, sanitation and adequate infrastructure still prevails in many Roma communities in both countries. In Slovakia, housing policy has long been characterized by mass forced evictions and the erection of walls separating Roma from non-Roma. Substantial numbers of Roma are also subject to residential segregation, substandard housing, lack of access to basic infrastructure and, importantly, a lack of access to drinking water, with a wide range of additional shortcomings.¹⁹ Municipalities often build rental apartments, particularly smaller sized ones, in segregated locations, which reduces the housing quality and increases the related costs. The concentration of poor households in one location is often accompanied by negative synergy effects, such as deepening poverty, limited accessibility to schools, health care facilities and other services, decay of

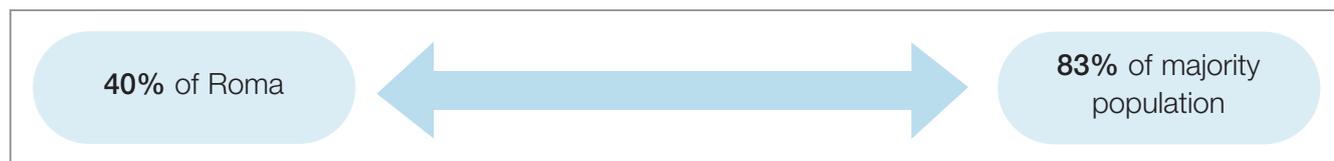
apartments or higher crime rates that particularly impact Roma from marginalized communities.²⁰ The Roma inclusion strategy 2030 acknowledges that social

exclusion, poverty and discrimination in the housing market are major factors sustaining the marginalization of Roma in this area.²¹

Access to public water supply in Slovakia:²²



Access to sewerage system in Slovakia:²³



Slovak Roma activists from some communities raised ongoing structural issues there, including multiple families living in small shelters without basic infrastructure, where several hundred people rely on one water well or on other Roma, who live in better conditions and can provide them with water. Some of the activists still lived in inadequate conditions themselves, without access to drinking water and at risk of repeated flooding from the nearby river. Roma living in informal settlements in particular face barriers to legally accessing electricity. Activists further pointed out the lack of interest of the local municipality in requesting available EU funds to address this situation. Others reported difficulties renting or buying a flat due to opposition from members of the majority population.

The Slovenian Ombudsman in his annual reports²⁴ repeatedly highlighted the housing problems of the Roma community. The most pressing problem is the legal and communal disorganization of Roma settlements. According to the Ombudsman's findings, the development of settlements is too slow, mainly due to the failure of municipalities and the government to take action, meaning that new generations are being deprived of their fundamental human rights, such as access to drinking water and sanitation. According to the Ombudsman, electricity is a basic commodity, which is in some cases indispensable to preventing the endangerment of the lives and health of individuals, and is of particular importance in ensuring basic minimum standards for education. The Ombudsman is of the opinion that municipalities must ensure that citizens have adequate access to drinking water without discrimination, especially in Roma settlements, regardless of the legal status of the land on which they stand.

'We live five people in one small room and there is only one water well for 400 people here and the water is not good for health and children have eczema. We have no place to wash ourselves and the children when they go to school. We only wash ourselves in a bucket.'

Roma woman activist, Hermanovce, Slovakia

Education

Many Roma children face widespread discrimination in access to education by being disproportionately and wrongly placed in special education and segregated primary schools and classes, which are common in both countries. This problem was noted by the Slovak Ombudswoman,²⁵ the Slovak equality body²⁶ and the National Roma Strategy.²⁷ Furthermore, due to the ongoing discrimination of Roma children in mainstream and special education, Slovakia is facing infringement proceedings by the European Commission for violating the EU Racial Equality Directive.²⁸

Activists interviewed in both countries reported school segregation. In Slovakia, they raised a range of deep-rooted structural problems, such as the high number of children in special schools and classes, the 'white flight' of non-Roma children as well as the low quality of education in segregated mainstream schools and classes. Some of them also raised the problem of vocational schools built in some of the communities, which many Roma children attend after primary school and where they receive a very low quality of education that deepens their segregation.

'When the children go from the segregated school in the community to the 5th grade to a mixed school in the town, they are terribly behind and hardly make friends with non-Roma children. They cannot catch up and then the school then moves some children to a special school. "White" parents complain that Roma children hold the others back. In Roma segregated schools they are taught to sing and dance. They have a crazy number of assistants, but no quality and no results.'

Roma woman activist, Bardejov, Slovakia

In Slovenia, Roma have repeatedly reported to NGOs that Roma children are illegally separated from the other children in classrooms. It is also of concern that a disproportionate number of Roma children have been assigned by school authorities to classes of pupils with special needs.²⁹ A local NGO estimated that 30–40 per cent of pupils attending schools and classes for children with special needs were Roma children, even though Roma represent less than 1 per cent of the total population.³⁰

'My son did not pass the third grade, he would have had to repeat it, but his teacher told me that it would make more sense for him to go to a special school. That it would be easier for him there, that he would get better grades. And I agreed. It seemed to me that it would be easier for everybody. I can't help him, I haven't finished school, I can't read or write.'

Roma woman from Slovenia

Employment

Discrimination against Roma in employment is widespread, particularly in hiring procedures in both countries. In Slovakia, research that involved sending job applications of fictitious Roma and non-Roma applicants to employers, where the information in the CVs clearly indicated their origin, illustrated this starkly: while 40.3 per cent of the non-Roma applicants were invited for interview and 69.4 per cent at least received a response to their applications, among Roma the proportion fell to just 17.7 per cent invited for interview and 37.1 per cent receiving some form of response.³¹ The Center for Civil and Human Rights has documented repeated cases of discriminatory advertisements against Roma in recent years, for instance openly stating 'Roma need not apply'.

Interviewees in both countries mentioned cases when they responded to a job advertisement by phone and were informed that the position was available, but on the spot

when the employers recognized them as Roma were then told the position had already been filled. In Slovenia, one of the company representatives interviewed mentioned a tacit agreement in the HR (human resources) department not to employ Roma. He argued that when the company hired Roma in the past, they were not accepted by other colleagues, which had a strong impact on the collective work climate, with some employees even threatening to resign if a Roma employee was hired. Discrimination in the labour market also has a negative impact on the motivation of members of the Roma community to apply for jobs; many Roma interviewees stated that they felt that it was pointless to apply for a vacant job, as they would not get it anyway because of their ethnic origin. In Slovakia, even if Roma are employed, they are often employed part-time until they prove their reliability and are only contracted full time later. Moreover, Roma are increasingly contracted temporarily and are then either replaced by other Roma or employed without a contract.

'One year ago, I was helping with a job search for younger women from our community in a nearby factory. On the phone they took them, but when coming to the employer in person afterwards, they were told that the positions were taken. But later I saw that this job was still advertised. I went to the place and confronted them, why were they advertising positions which are allegedly occupied, while telling them I could take legal steps against this discrimination. But they changed their mind and took all the Roma women.'

Roma woman activist, Spišská Nová Ves, Slovakia

'A few months ago, I went for another job interview. I wanted to work in catering. I think I did very well. I was able to answer all the questions, even though I had never worked in catering before, but I would quickly learn how and what to do. At the interview, the boss of the restaurant was very nice to me, I had a really good feeling. He said he would let me know in a week or so if I got the job or not. And then I waited for the call. One week. Two weeks. Then I called. They told me that there had been a change, that they had found a more suitable candidate. And that's exactly what happens every time I go for a job interview. I do not apply for difficult jobs where I do not meet the conditions and I know I cannot get them. But how can I stay motivated to look for a job if I never get the job because they make a decision based on the colour of my skin?'

Roma man from Slovenia

Police abuse

Cases of police brutality against Roma and lack of access to justice in this area have continued to be reported in Slovak society over the years. The Center for Civil and Human Rights, which has been documenting police brutality and providing legal assistance to affected persons for many years, in 2021 reported ongoing incidents, including serious shortcomings in investigations which did not meet the criteria laid down by international law. The possible racial motive is generally downplayed and is not effectively investigated either. The criminal investigation in almost all cases litigated by the Center in previous years has been halted at a certain stage of the proceedings, before reaching the court. Some of them ultimately led to recent decisions of the European Court of Human Rights in favour of the Roma applicants, while others are still pending before the Strasbourg Court.³² Based on its field monitoring, the Center stresses that many cases in this area may not be reported at all, as the affected Roma may be afraid of victimization and do not trust the institutions responsible for investigation and justice. The European Roma Rights Centre (ERRC)³³ and the European Commission against Racism and Intolerance (ECRI)³⁴ also addressed police brutality. Slovak media widely reported on the alleged ill-treatment of several Roma children in Krompachy by a police officer in April 2020 during the Covid-19 pandemic, where the whole local Roma community was under quarantine and movement of its inhabitants outside the community was completely restricted.³⁵ In February 2022 the investigation into the case was discontinued,³⁶ while the Center for Civil and Human Rights, who were representing the affected children in the criminal proceedings, considered the investigation ineffective. Reports from the interviewed activists suggest that instances of police ill-treatment are still present in some localities to some extent. In addition, racial profiling was reported in some communities, stating that the police visited them and checked when state social benefits are paid out every month, and fined people for minor offences like technical problems with cars.

'I saw recently that the policemen came to the community to an elderly couple in their 70s. A man allegedly beat a wife. Her family called the policemen, who instead of investigating him, struck two slaps on him. I wanted to step in, is this how you help people? And then they let it go.'

Roma woman activist, Bidovce, Slovakia

In Slovenia, some Roma interviewees also reported that they have faced discrimination by the police. A Roma man said that he was mistreated by a police officer in 2013. The man and his cousin were stopped by a police officer while riding a moped. The police officer was disturbed by the fact that the two Roma spoke to each other in Romani and started to insult them. The case was covered by the media,³⁷ which was mainly due to the fact that the man recorded the unfair treatment on his mobile phone.

Other manifestations of discrimination against Roma

Discrimination against Roma in Slovakia continues to manifest itself in other areas. Roma are more likely to be ethnically profiled and drawn into the criminal justice system than non-Roma.³⁸ According to recent research, 24.5 per cent of Roma respondents reported that they or someone in their household in the past year had experienced direct discrimination in shops, 27.3 per cent in municipal offices and 23.3 per cent in access to public spaces (such as restaurants, pubs and hotels).³⁹ The Center for Civil and Human Rights conducted monitoring in 2019 specifically focusing on discrimination in the area of public accommodation and concluded that discrimination continues to take place in some localities.⁴⁰

Slovak Roma activists also raised issues of discrimination in access to public places, particularly that Roma were denied entry to restaurants, pubs or summer swimming pools, with false justifications offered (such as all the tables being reserved or a club card being needed). While in many localities these issues do not occur, in some others they appear to be deep-seated, even though some activists have taken legal steps against them. Roma in these communities tend to take it as a long-term status quo and visit other public places, where they do not experience problems. Access to hairdressers has also been raised as a potential problem, as some of them select among Roma women depending on their social status. Perceived social status is also a factor for restaurants when selecting individual guests and serving only well-dressed Roma.

'We are in 2022 and Roma still cannot go to the bar or restaurant. My daughter went out to have a coffee with her friends and they didn't let them in because they allegedly had a private event. It is very sad. She went to high school in Košice city, where she never encountered such discrimination.'

Roma woman activist, Sabinov, Slovakia

In Slovenia, Roma community members often mentioned in interviews the discrimination they faced when they dealt with officials, with repeated reports of being dismissed by health workers without proper treatment. Administrative units regularly reject Roma, who often need extra support in understanding and interpreting bureaucratic procedures.

In Slovenia, discrimination against the Roma community is also spread in the media, which has an impact on public opinion, and therefore this type of reporting should definitely be sanctioned and limited. When reporting on crimes committed by members of the Roma community, many media outlets emphasize that the perpetrators were Roma. Thus, in the media, we can see headlines such as ‘There is no end in sight to the Roma abuse of the inhabitants of Šentjernej’,⁴¹ ‘Kočevje residents are being bullied by underaged Roma’,⁴² ‘An 11-year-old boy was beaten up by three Roma classmates’,⁴³ ‘A Roma man stole a wallet full of money from a deaf Roma man’,⁴⁴ ‘Bizarre but true: Kočevje Roma find themselves at the police station – to identify an illegal migrant who stole their van!’⁴⁵ Positive stories about Roma in the media are rare, but in 2020 there were several reports about how a Roma man stopped a police officer from robbing a petrol station, which instantly became an online hit.⁴⁶

A young Slovenian Roma decided to obtain his driving licence. His instructor at the driving school did not know that he was Roma and at the classes he often made racist comments about Roma, referring to them as ‘gypsies’ and expressed discriminatory views. As the youngster no longer felt comfortable at the driving school, he decided to change school. When he went to collect his school leaving certificate with his mother, who explained why his son wanted to leave, the administrator at the driving school arrogantly said that she had to check if he had paid all the fees before he could leave.

Health care

In Slovakia, substantial numbers of Roma living in segregated communities are exposed to critical levels of health-endangering materials which contribute to their markedly poor health status. Most of them are also exposed to environmental hazards. In addition, Roma living in marginalized communities face various problems with public medical services, including ethnic discrimination.⁴⁷ One of the reasons for the low engagement with health services by Roma communities is the distance between health care facilities and their residences.⁴⁸ The Strategy for Equality, Inclusion and

Participation of Roma until 2030 recognizes that the health of Roma living in marginalized communities is significantly worse than of people from the majority population and aims to remove the inequalities experienced by Roma in access to health care.⁴⁹

Multiple and intersectional discrimination against Roma women

Roma women often face multiple and intersectional discrimination based on their ethnicity and gender in both countries. The Center for Civil and Human Rights has continuously documented instances of intersectional discrimination in previous years in Slovakia and noted that these are especially widespread and pronounced in the field of reproductive health care. Roma women in many hospitals commonly experience segregation in maternity wards, racial harassment and humiliation, neglect, physical restraint and abuse during childbirth, and failures related to informed consent and decision-making regarding their medical treatment. Systemic discriminatory policies and measures persist in many hospitals.⁵⁰ Slovak Roma women activists also widely confirmed ongoing discrimination of Roma women in reproductive health care, highlighting the continued existence of segregated ‘Roma rooms’ in maternity wards in several hospitals, the existence of segregated toilets and showers for Roma women, and disrespectful treatment of Roma women by medical personnel that made them feel inferior. Segregation of Roma infants in paediatric wards was also reported. Other reported issues included emergency ambulances being hesitant to respond quickly to communities and the refusal of local dentists to treat Roma patients, sending them to a distant emergency dental service in another town instead. In addition to reproductive health care, Slovak Roma activists mentioned other areas, such as access to employment and education, where Roma women often face discrimination. One of the most serious instances of intersectional discrimination against Roma women was the practice of forced sterilization, which occurred in Slovakia and the former Czechoslovakia between 1966 and 2004.⁵¹ In November 2021 the Slovak government finally apologized for this practice, which predominantly affected Roma women,⁵² but the compensation scheme is still being discussed and was still not in place at the time of writing.

It is common in both countries that Roma women often have to take care of the family and have less opportunity to study or work. In Slovenia, during the interviews, a case was mentioned where a Roma woman wanted to attend a leisure activity but was not allowed to

do so by her family members because they could not control who she was hanging out with and what she was doing. Child marriage, a common practice, was also mentioned by Slovenian activists.

'When my daughter-in-law was about to give birth this year, an ambulance did not want to come further to our community than the bridge. In the ambulance they scolded her and she actually gave birth in the car. Then they put her in the Roma room. They didn't change her bloody sheet for days.'

Roma women's activist, Jarovnice, Slovakia

Impact of the Covid-19 pandemic

The Covid-19 pandemic amplified ongoing shortcomings in the protection of Roma rights in a number of areas in Slovakia. In order to prevent the spread of the pandemic in Slovak society, including among Roma, the Slovak state authorities imposed area quarantines on a number of marginalized Roma communities from March 2020 to the spring of 2021. The Slovak Ombudswoman and relevant NGOs argued that this approach was clearly disproportionate to the extent that it restricts individual freedom of movement and other liberties of thousands of Roma. The approach was likewise deemed potentially discriminatory as the quarantines only affected marginalized Roma communities. Moreover, the Slovak government fell short of adopting positive measures that would effectively protect the health of Roma communities during the pandemic, such as effective access to drinking water and equal access to vaccination. Instead, vaccination was rolled out through an online registration system that required digital skills and access to electronic devices such as computers or smartphones, which many Roma lack. One of the Slovak Roma activists from a quarantined community said that they felt like 'hunted animals somewhere in the reservation', while the police and the army guarded them, and drones flew over their heads patrolling them. They only had access to overpriced food packages provided to them from outside, and lacked disinfectants, toilet paper and other daily necessities. Some Slovak Roma activists pointed out that the pandemic worsened the relationships with the majority population in their communities, as Roma were perceived by them as potential sources of infection who had to be kept at a distance, for example when entering a local grocery store. It was also reported that during the pandemic, when some employers dismissed staff, Roma were typically among those who were dismissed first.

In Slovakia, during the interruption of in-person education at school, Roma children without computers and internet access were left behind and many teachers failed to maintain the continuity of their education.⁵³ Similarly, in Slovenia, during the first wave of the pandemic, during the lockdown, schools did not have protocols for home-schooling and, due to the lack of technical equipment, many Roma children could not fully participate in education. Furthermore, many large Roma families live in relatively small apartments where children did not have their own space to follow their online classes without being bothered by other family members.

'Our community was closed for several weeks during the pandemic. We couldn't understand it. There were policemen everywhere, police tapes all around the community, they didn't want to let us out. Why should all have suffered for a few infected people?'

Roma male activist, Bystrany, Slovakia

'Our children did not learn enough during the pandemic. Overall, they cannot properly teach them to read, write and calculate. They really don't know anything. Afterwards they only continue to vocational school directly in the village, a purely Roma school.'

Roma woman activist, Jarovnice, Slovakia

4 Access to justice

As members of the EU, both countries have anti-discrimination legislation in place and an established equality body in compliance with the Racial Equality Directive.⁵⁴

Even though the Slovakian legal experts interviewed raised a range of specific issues to further improve the Anti-Discrimination Act, they agreed that its current wording is adequate in its fundamentals and provides sufficient legal basis for discriminated persons to pursue justice effectively – provided that it is effectively implemented by the courts. They all highlighted its

limited practical implementation as an ongoing obstacle to achieving effective access to justice in this area. The experts individually raised various legal issues preventing discriminated persons from accessing justice in the courts, in particular:

- The widespread reluctance of courts to find that racial discrimination has taken place.
- A lack of deeper understanding of anti-discrimination legislation as such, and the poor quality of decision-making overall due to judges' insufficient knowledge

	Slovakia ⁵⁵	Slovenia
Anti-discrimination legislation	Act on Equal Treatment in Certain Areas and Protection against Discrimination	Protection Against Discrimination Act
Year of adoption	2004	2016
Protection	<p>Race/ethnic origin is a protected character in access to social assistance, social insurance, state social support and social advantages, health care, education, goods and services including housing and employment.</p> <p>The Act disallows:</p> <ul style="list-style-type: none"> • Direct discrimination • Indirect discrimination • Harassment • Sexual harassment • Victimization • Instruction to discriminate • Incitement to discriminate 	<p>Race/ethnic origin is a protected character in access to social assistance, social insurance, state social support and social advantages, health care, education, goods and services including housing and employment.</p> <ul style="list-style-type: none"> • Direct discrimination • Indirect discrimination • Harassment • Sexual harassment • Discrimination by perception • Injunction, order or other direction to discriminate against a person because of a particular personal circumstance • Incitement to discrimination • Retaliation • Serious forms of discrimination: multiple discrimination, mass discrimination, prolonged or repeated discrimination, and discrimination which has consequences which are difficult to remedy for the person discriminated against in terms of causing damage to his or her legal position, rights or obligations – in particular where it is committed in relation to children or other vulnerable persons.
Actio popularis	According to the Slovak Anti-Discrimination Act, lawsuits can be initiated by the equality body and legal entities focusing on the protection from discrimination such as human rights NGOs in cases when discrimination could affect the rights, interests or freedoms protected by the law of a large or indefinite number of persons, or if the public interest could otherwise be seriously threatened by this violation. ⁵⁶	<i>Actio popularis</i> does not exist in Slovenian law, but there is a system of collective actions/lawsuits that are similar to <i>actio popularis</i> and can have <i>ergo omnes</i> effect. Collective actions can be initiated by individuals, NGOs and other stakeholders, but they mainly cover civil, economic and labour relations.

'Even though any legislation can eventually be improved, I essentially find the current Anti-Discrimination Act to be adequate. The bigger problem is its implementation, which in my view remains very poor. Judges do not know how to identify what is discrimination and what is not. They reject cases of clear discrimination, and on the other hand, they are able to find discrimination in cases involving some other possible injustice, but which is not discrimination.'

Zuzana Magurová, Slovak attorney

'Based on my practical experience representing Roma in anti-discrimination disputes, the legal barriers in access to justice for Roma in Slovakia are structural and they are ongoing for years without significant improvement. Courts remain reluctant to determine racial discrimination and even if they find discrimination – they award no or, at best, only symbolic financial compensation. I feel like in most of the cases they tend to downplay the seriousness of racial discrimination as a human rights violation, ignoring its prima facie impact on human dignity. Racial stereotyping also occurs and is reflected in some court decisions. Court backlogs are serious barriers. Court proceedings concerning discrimination last an unbelievably long time. By way of illustration, I still represent Roma who were denied access to a bar due to their ethnic origin, filed a lawsuit in 2006 and have been pursuing justice until now without success. In this situation Roma are reluctant to take legal action in their cases of discrimination.'

Vanda Durbáková, attorney working with the Center for Civil and Human Rights, Slovakia

'In my view, the main barrier to access to justice in Slovakia for people who are discriminated against is the reluctance, inability and literally the unwillingness on the part of the state authorities. It is so extensive that I feel like that the government has established its institutions in order to maintain the status quo. Rather than addressing the existing barriers, the institutions strive to keep these barriers in place. For people who have been discriminated against, the current state institutions basically keep sending this message: What are you talking about? You were not subjected to discrimination, this was a standard procedure, why are you complaining? The people affected not only do not have access to institutions, but these institutions do not function properly once approached. The key to improving the situation is to have good quality and independent institutions which proactively secure protection from discrimination, and this is still missing.'

Janka Debrecéniová, deputy to the Executive Director, Citizen, Democracy and Accountability, Slovakia

of the relevant anti-discrimination legislation, meaning the application of the principle of reversed burden of proof⁵⁷ continues to fall short of legal consistency.

- Widespread reluctance of courts to award financial compensation for non-pecuniary damages (if compensation is awarded, it is generally symbolic).
- The tendency of courts to downplay the seriousness of racial discrimination, overlooking or not understanding its impact on human dignity.
- In some instances, a certain bias when dealing specifically with cases of discrimination against the Roma minority.
- The excessive duration of judicial proceedings (usually over several years) and the persistence required of complainants and their legal representatives to carry on with the proceedings.
- The limited legal engagement of the Slovak equality body.

The experts reflected that the change of the equality body's director in 2020 enhanced its public relations and visibility, but some argued that the organization does not focus sufficiently on the most pressing discrimination-related issues or on their legal repercussions, suggesting

that it should give its litigation competence higher priority and have a clear litigation strategy. Legal experts raised the importance of building up the institutional authority of the equality body in relation to the government and other state institutions, so its findings and recommendations would have an increased public impact.

The representative of the equality body acknowledged in the interview some challenges that needed to be addressed. He highlighted recent efforts to raise its public profile and emphasized the importance of enhancing its overall credibility and visibility so that the public is aware that the equality body can provide effective legal assistance and can be trusted. However, the organization lacks sufficient staff given the extent of its responsibilities. According to the representative, the recommendations of the equality body are widely ignored by other state institutions, which is very difficult to change as they are not binding. As for addressing discrimination against Roma, the equality body found it important to raise public awareness and publicize the accessibility of legal help, while acknowledging that it should be more proactive in this regard: in particular by developing closer relationships with Roma communities and providing more legal assistance so they could take more legal action with their support.

Reflecting on the ineffective implementation of the Act, the legal experts interviewed stressed the importance of improving legal education on anti-discrimination law, ranging from law faculties (where this component is widely absent) to ongoing life-long education of legal professionals. Judges' individual responsibility to self-educate themselves, when dealing with discrimination cases, was also raised by one of the experts. When reflecting on the barriers that Roma face in accessing justice, some of the experts emphasized that not only should individual justice be effectively provided by the courts or inspection bodies, but also touched upon the importance of state institutions in general respecting the principles of the Act to avoid institutional racism and prevent structural discrimination.

None of the Slovak Roma activists interviewed were aware of discrimination cases reported to the equality body by Roma, and only a few of them were aware of the existence of the Slovak equality body. Considering that the respondents are activists who have defended themselves against discrimination and have a higher awareness of legal remedies, this suggests that the awareness of the equality body among Roma communities is extremely low. Instead of reporting a discrimination case, Roma may instead confront the perpetrator directly on the spot. Some of them may turn to local Roma activists or authorities like a mayor (when trusted) or contact media outlets, who may eventually direct them to an NGO or lawyer who can provide them with legal assistance. Similarly, in Slovenia, of the 10 interviewed Roma activists and civil society organizations (CSO) representatives, only one was aware of a discrimination case that was reported by a Roma.

While the large majority (44) of the 50 Slovenian Roma interviewees have experienced discrimination (mainly in relation to administrative bodies, in the health and educational system, and in shops), none of them reported their case to the equality body. According to the information obtained in the interviews, this is due in part to the perception that nothing will change anyway, that no one is actively working in this area, and that the Roma community will accumulate additional problems if they choose to report incidents. Furthermore, many of them did not even know what discrimination was, were not aware of its different forms, often did not identify a certain behaviour as discrimination, did not know how and where to report discrimination, or what legal assistance was available.

According to the CSO representatives and Roma activists interviewed, the key reasons why people discriminated against do not report incidents are: lack of trust in institutions and lack of knowledge about supporting bodies, lack of knowledge about the

legislation, legal fora and available legal remedies, while others might think that reporting the case would not change the situation anyway. CSO representatives believe that organizations should support Roma in the fight against discrimination by providing free legal aid, organizing awareness-raising campaigns on discrimination and anti-gypsyism, getting engaged in cross-sectoral cooperation, including the equality body and lawyers.

While many of the Slovak Roma activists interviewed took some legal steps with the assistance of the Center for Civil and Human Rights, legal action in this area is very rare in Roma communities and only linked to very serious cases (such as the death of a child in hospital due to a possible omission of doctors, which was recently contested by parents in one community). Those Roma who know about an NGO or institution that they can turn to are more willing to take legal action. Roma activists widely stated that Roma would appreciate more legal support, which could help increase the number of reported cases.

'Roma do not have enough information and are afraid. I know Roma parents, who filed a complaint with the school regarding their child, but to whom will the municipality as a founder of the school give the truth? To Roma parents or the school director? Roma do not believe that they have a chance to get justice, that they can succeed, and institutions will believe their claims.'

Roma woman activist, Huncovce, Slovakia

'What will change if I say that I'm being discriminated against? Will it stop? No, it won't. Will it be better for me? No. Maybe one person will have to deal with some consequences but what about all the rest?'

Roma woman from Slovenia

The Slovak Roma activists and legal experts interviewed raised various reasons why Roma who have been subjected to discrimination do not want to report a case, particularly the overall lack of information about where to turn to for assistance, the fear of people that the situation may turn against them (victimization), lack of trust in the justice system, overall social deprivation and poverty forcing them to focus on other daily issues, and that they perceive discrimination as something so common and unchangeable that they do not see the point in trying to oppose it.

There was a wide consensus that more cases being tackled and more positive outcomes would discourage perpetrators from discrimination and would contribute to

prevention. In this regard, all activists thought reporting cases of discrimination was worthwhile and would encourage other Roma to seek legal remedies in discrimination cases. Despite interviewees in both countries articulating a sense of disappointment and a belief that the situation of Roma might never change, they all found it important to pursue Roma rights and to report more cases of discrimination.

'Sure, it is important to complain against discrimination or other human rights violations. Because if we – as Roma – give up, our position in Slovak society will not improve. We have to show that we are equal. That we have our place in this country.'

Roma man, activist, Medzev, Slovakia

'I think it would be good to report it, but I don't know how and even if I report it, nothing will change. If we want change, we would all have to constantly report it. We would have to become annoying with reporting it. And there should be strict consequences. Then something might change. But I don't believe I'll see a big change while I'm alive.'

Roma woman from Slovenia

The Slovenian legal experts interviewed, who are familiar with and often use the national anti-discrimination legislation, considered it to be adequate. Legal experts think that lawyers' knowledge could be further developed by organizing seminars and trainings, studying the literature and case law, raising awareness and involving them in projects. Of the seven lawyers interviewed, five were familiar with the functioning and work of the Advocate of the Principle of Equality (APE, equality body). Legal experts believe that the work of the APE could be further developed by promoting it in the media. Some lawyers think that the proper implementation of the opinions and recommendations of the APE would prevent further breaches. In their opinion, access to justice for Roma could be enhanced if pro bono lawyers regularly visited Roma settlements and by raising awareness of their rights. Despite the fact that free legal aid is available to members of the Roma community in Slovenia (if they meet all the conditions), they rarely use it to report discrimination. There are a few legal advice offices that provide free legal services, but they are not specialized in working with the Roma community. Cooperation with Roma-led or pro-Roma NGOs would also be beneficial for the APE.

Case law concerning human rights of Roma

Slovakia

Despite a range of negative factors curbing the implementation of the Slovak Anti-Discrimination Act, Slovak courts have delivered several decisions of strategic significance, which have tangibly contributed to public and policy discussions about racial discrimination against Roma. They have ongoing advocacy value.

December 2011: the District Court in Prešov ruled on a discrimination case against Roma children who were taught in separate classrooms at primary school in Šarišské Michaľany. After unsuccessful attempts by the local community to desegregate the school, the Center for Civil and Human Rights initiated *actio popularis* against the school, arguing that the practice constituted a serious form of unlawful ethnic discrimination and violated the rights of children to education without discrimination. The decision was upheld by the regional appellate court in 2012 and became final. The Regional Court rejected the school's arguments that the education of Roma children from socially disadvantaged backgrounds in separate classes was the only means to provide them with equal quality of education. On the contrary, it found these means in violation of the principles of equal treatment. The decision – being the first to address segregation in school classes – significantly spurred public discussion about the pervasive segregation of Roma children in education.⁵⁸

October 2012: the District Court in Prešov ruled on the residential segregation of several Roma who had been illegally moved out of rental apartments in a central area owned by the town of Sabinov to new rental apartments of a lower standard, built by the town outside the built-up areas and far from the town's infrastructure, based on a subsidy from the Ministry of Transport. The decision was upheld by the appellate court in 2018 and became final, while respecting the judgment of the Supreme Court in this matter from 2017. The Regional Court, following the legal opinion of the Supreme Court, reiterated that only Roma were moved to rental apartments in a segregated area of town, so they were treated differently from the other inhabitants and thus faced discriminatory treatment on the basis of their ethnic origin, for which the town was responsible. Moreover, the Ministry of Transport was obliged to examine circumstances under which the subsidy was supposed to be used in a broader context and consider whether using the subsidy eventually led to the segregation of the Roma minority.⁵⁹

February 2016: the District Court Košice II decided that the Košice hospital violated the rights of a Roma woman whom they sterilized without securing her informed consent. The court first instructed the hospital to apologize and in the second verdict awarded the woman the right to financial compensation in the full amount requested of almost €17,000. It was the first decision of domestic courts providing justice, including adequate compensation, to forcibly sterilized Roma women. The decision was upheld by the appellate court in November 2016 and became final. Key for achieving this decision were previous ground-breaking decisions of the European Court of Human Rights that, between 2011 and 2013, upheld their claims and found violations of the European Convention in three separate cases brought by Roma women.⁶⁰ All affected Roma women were represented by the Center for Civil and Human Rights. These decisions were also instrumental for ongoing advocacy with the Slovak government to establish an independent body, which would effectively provide financial and other reparations for survivors directly without going through a court procedure.

March 2017: the District Court in Košice ruled that the town of Spišská Nová Ves discriminated against a Roma woman by not selecting her for one of three vacant positions of community field workers. Compared to the claimant, the persons selected for the positions were less qualified, had less experience as community field workers and less training, did not speak the Roma language, and were of non-Roma origin. It confirmed that the respondent discriminated against the claimant on the ground of her Roma ethnic origin and the respondent was obliged to send the claimant a written apology and to pay non-pecuniary damages of €2,500. It was the first court decision in favour of a Roma in access to employment. The decision was upheld by the appellate court in February 2018 and became final.⁶¹ The Roma woman was represented by the Center for Civil and Human Rights.

November 2021: the District Court in Prešov upheld the anti-discrimination lawsuit of three Roma children from the village of Hermanovce, who were illegally educated at a local primary school in special classes for children with mild intellectual disabilities. The defendant Private Center for Special Pedagogical Counselling in Prešov, which performed psychological diagnosis of children, as well as the primary school in Hermanovce, discriminated against them on the ground of their ethnicity. The first instance court ordered the defendants to apologize to the discriminated children and to award each of them financial compensation of €5,000. In addition, the court confirmed the school's responsibility for segregating Roma

children in special classes, which were located outside the main school building and attended exclusively by Roma children. The decision was the very first in Slovakia targeting pervasive segregation of Roma children in special education.⁶² The children were represented by the Center for Civil and Human Rights.

January 2022: District Court Košice II decided in favour of nine complainants of Roma ethnicity, claiming they were forcibly evicted from their homes in Košice in 2012 under the pretext of waste removal by the city authorities. The court ruled that the City of Košice, through the forced eviction of the complainants, unjustifiably interfered with their human dignity and the right to privacy and committed illegal discrimination on the basis of their ethnicity. The court also specifically ruled that the complainants experienced discrimination in the form of harassment in the area of providing public services covered by the Anti-Discrimination Act.⁶³ The decision has a broader strategic importance with respect to targeting practices of forced evictions of Roma in Slovakia.

It should be noted that since 2004 discrimination cases have overwhelmingly ended with dismissive decisions, in which domestic courts failed to find racial discrimination against Roma and arguably fell short of the effective implementation of the Anti-Discrimination Act. This is clearly indicated, for example, by the decision of the UN Committee on the Elimination of Racial Discrimination on the violation of rights of a Roma woman, who was discriminated in access to employment and who was unable to get justice in national courts due to failures in their decision-making.⁶⁴ In addition, a string of decisions of the European Court of Human Rights from recent years against Slovakia concerning its failures to effectively investigate alleged cases of police brutality against Roma speaks about structural shortcomings in this area.⁶⁵ In general, the number of cases of discrimination against Roma resolved by courts remains very low and most of them resulted from the strategic litigation of human rights NGOs like the Center for Civil and Human Rights.

Slovenia

The FRA *Handbook on European Non-Discrimination Law 2018*,⁶⁶ which compiles cases of discrimination affecting the Roma community, does not include any cases from Slovenia, which is also an indication of the problem that Slovenian Roma rarely seek a legal remedy in discrimination cases; this certainly contributes to a distorted picture of discrimination against the Roma community in Slovenia at the international level. Therefore, there are extremely few court cases dealing with

discrimination against Roma. One example is a case from 2010, when a man who had called for physical violence against a Roma family and persecution from their hometown, was found guilty of the offence of incitement to discord or intolerance based on a violation of the principle of equality. The Court gave the person a suspended sentence, which included a sentence of one month and a probation period of one year.⁶⁷

The Regular Annual Report 2021 of the APE listed the following discrimination cases against Roma:⁶⁸

1. Possible discrimination in trade on the grounds of race or ethnic origin

The APE was contacted by a client of Roma origin who allegedly was subjected to discrimination in a shop. The shop assistant asked the client to show them the contents of his bag. Consequently, the client asked for the complaint book, but the staff refused to hand it over to him. The APE asked the client to give a detailed and specific description of the events, to submit a handwritten and signed discrimination claim and to provide the contact details of any witnesses for the purpose of the evidentiary procedure. The client did not respond to this request, thus the procedure was terminated.

2. A perception that a job applicant is discriminated against is not sufficient to establish discrimination

The APE was contacted by an unsuccessful candidate of a hiring procedure, who stated in his letter that he felt he had not been selected because of his first and last name and slightly darker complexion. The equality body identified race or ethnic origin as relevant personal circumstances and, in the case of a non-Slovenian national, nationality. The equality body explained to the client that it could only confirm whether discrimination had been committed in a particular case after the fact-finding procedure had been completed, and therefore encouraged the client to submit a claim for a discrimination hearing. The APE introduced the client to the principle of the reversal of the burden of proof and, in

view of the wording of the letter, reminded the client that a mere feeling, whether for administrative or judicial proceedings, was not sufficient. The burden of proof requires the party to make clear, specific and complete allegations of the facts on which it relies. Only then does the burden of proof shift to the alleged infringer, who must prove that it has not discriminated. The client did not choose to file a motion for a hearing and therefore, the procedure was terminated.

3. Allegedly controversial treatment of a Roma client at a police station

The APE was contacted by a client of Roma origin who stated that an employee of the Specialized State Prosecutor's Office had acted in a controversial manner and felt that his conduct was discriminatory. The person also invoked the reversal of the burden of proof provided for in Article 40 of the Protection Against Discrimination Act. The APE sought clarification from the competent police station where the hearing of the Specialized Public Prosecutor's Office took place, which denied the allegations made by the client. The APE forwarded the police's explanations to the client and explained to him that the perception of discrimination does not relieve the parties of the burden of proof, and that in order to establish discrimination, the APE needs relevant evidence, such as at least the contact details of witnesses, which the client did not provide. In the procedure for establishing discrimination, the equality body must establish with certainty the facts on which the finding of discrimination is based, in accordance with the rules of the general administrative procedure. The client did not choose to submit a request for a hearing and thus the procedure was closed.

Based on the examples given, it can be observed that even those Roma who initiated a procedure before the APE later withdrew from the proceedings or did not provide sufficient information to support their claim of discrimination. In these cases, legal assistance would be indispensable for clients to be able to proceed with their cases.

5 The equality bodies

	Slovakia ⁶⁹	Slovenia ⁷⁰
The institution which holds the national equality body's mandate	Slovak National Centre for Human Rights	Advocate of the Principle of Equality
Legal regulation	Act on Equal Treatment in Certain Areas and Protection against Discrimination	Protection Against Discrimination Act
Date of establishment	2004	2016
Litigation power	<ul style="list-style-type: none"> • Representing discriminated persons before the courts • Bringing proceedings in the name of the equality body (<i>actio popularis</i>) • Intervention in support of a party 	<ul style="list-style-type: none"> • Representing discriminated persons before the courts • Bringing proceedings in the name of the equality body (with or without an identifiable victim) on behalf of one or more individual person(s) who consents to this • Intervention in support of a party • Defending own legally binding decision before the courts • Requests for constitutional review of discriminatory regulations before the Constitutional Court
Decisions	Formally deciding on received claims on discrimination. Its decisions are not legally binding, they are in the form of expert opinions which can also be used as evidence in court proceedings.	The Advocate issues binding decisions and recommendations but may not impose sanctions.
Procedure	A person who considers that they have been discriminated against may lodge a request/submission to the Slovak National Centre for Human Rights by written form, email or in person. The Centre does not deal with anonymous requests.	A person who considers that they have been discriminated against may lodge a request for a hearing with the APE, where they shall have the status of a party to the proceedings. The person may withdraw the application until the decision is delivered. The procedure is free of charge for the parties. A person who considers that they have been or are being discriminated against may bring an action to end discrimination, for compensation for the discrimination, or for publication of the judgment in the media. If a person has been discriminated against, they are entitled to compensation, which is paid by the person who caused the discrimination. The amount of the compensation is between €500 and €5,000.
Mandate	<p>It has a dual mandate as the Slovak equality body as well as its National Human Rights Institution (NHRI). In this respect, it fulfils a wide range of tasks in the field of fundamental rights and freedoms that in particular include:</p> <ul style="list-style-type: none"> • Monitors and evaluates the observance of human rights and the observance of the principle of equal treatment, in accordance with the Anti-Discrimination Act • Gathers information on racism, xenophobia and anti-Semitism in Slovakia and provides this information on request 	<ul style="list-style-type: none"> • Provides information, advice and advocacy • Receives reports of discrimination and determines discrimination in formal proceedings • Researches and monitors the situation of discrimination in Slovenia • Makes recommendations to the competent authorities • Raises public awareness on protection against discrimination • Organizes trainings, advisory and capacity-building activities for particular stakeholders on meeting their obligations • Advises government on the development,

	Slovakia ⁶⁹	Slovenia ⁷⁰
	<ul style="list-style-type: none"> • Conducts research and surveys for the purpose of providing data in the field of human rights, gathers and, on request, provides information in this field • Prepares educational activities and takes part in information campaigns with the aim of increasing tolerance in society • Secures legal aid for discriminated persons • Issues, on request of natural persons or legal entities or on its own initiative, expert opinions in matters of observance of the principle of equal treatment in accordance with the Anti-Discrimination Act • Carries out independent inquiries concerning discrimination 	<ul style="list-style-type: none"> • adoption and amendment of law and policy • Carries out specialist research on equality and non-discrimination • Reports to national and international bodies on discrimination issues • Networks with relevant entities in the country and internationally
Criticism	<p>NGOs and international human rights bodies criticized the equality body for its inadequate functioning and independence.⁷¹ From 2019, it has provided no legal representation to Roma in court proceedings, and it had never litigated <i>actio popularis</i> addressing systemic instances of racial discrimination on its own initiative.⁷²</p>	<p>Legal experts believe that the work of the APE could be further developed by promoting it in the media. The proper implementation of the opinions and recommendations of the APE would prevent further breaches. Access to justice for Roma could be enhanced if pro bono lawyers regularly visited Roma settlements and by raising awareness of their rights. Cooperation with Roma-led or pro-Roma NGOs would also be beneficial for the APE.</p>
Data about the complaints	<p>It has received only a low number of complaints concerning racial discrimination initiated by Roma applicants:</p> <p>2019 – 9 complaints 2020 – 3 complaints 2021 – 4 complaints</p>	<p>It conducted only a few proceedings related to racial discrimination initiated by Roma applicants and provided counselling in a low number of discrimination cases:</p> <p>2019 – 3 discrimination proceedings and 2 counselling 2020 – 3 discrimination proceedings and 1 counselling 2021 – 3 discrimination procedures and 3 counselling⁷³</p>

6 National and local policies addressing discrimination against Roma

National Roma strategies and action plans 2020–2030

The key government strategic policy documents in this area in both countries are the national Roma strategies 2030 that were adopted in line with the EU Roma Strategic Framework for Equality, Inclusion and Participation 2020–2030.⁷⁴ In Slovakia, the Strategy for Equality, Inclusion and Participation of Roma until 2030⁷⁵ sets the goals and provides the general framework for the declared government efforts to ensure inclusion and equality for Roma in the current decade, covering particular priority areas of housing, education, employment and health care. It also sets goals to counter anti-Roma racism and shortcomings in access to justice in cases of discrimination. Importantly, the Strategy recognizes the wide structural nature of discrimination, while explicitly defining that structural discrimination does not result from discriminatory behaviour of individuals, but concerns established practices, standards and approaches of institutions to minorities.⁷⁶ The Strategy also admits that the previous government strategy in this area (years 2012–2020) fell short in terms of implementation.

The goals of the Strategy have been translated in the first action plans, setting out a wide range of policies and measures to pursue the goals of the Strategy between 2022 and 2024, with indicators to track the progress.⁷⁷ As evident from the action plans, the government widely relies on utilizing European structural funds and EU funds that Slovakia is expected to receive for the implementation of its adopted Recovery and Resilience Plan.⁷⁸ It remains questionable if the elaborated measures and allocated funding for their implementation will be sufficient to start to effectively disrupt widespread structural discrimination, such as segregation in housing and education, or institutional racism in health care disproportionately affecting Roma women, and how sustainable these efforts will be. It is essential that the government authorities are also committed to investing sufficient funds from the state budget in the long term.

In Slovenia, the National Programme of Action of the Government of the Republic of Slovenia for Roma for the period 2021–2030,⁷⁹ which was adopted as a continuation of the previous programmes,⁸⁰ defines the main objectives

and basic measures for improving the socio-economic situation of the Roma community and its members, creating conditions for improving their social inclusion and empowerment, as well as strengthening their participation in processes to improve their own situation and achieve full inclusion and equality in Slovenian society over the period. The key themes addressed within the strategic document are: education and training, employment, social protection, social inclusion, protection of children, women and youth, health and health care, settlement management and access to housing, integration into social and cultural life, improving coexistence in Roma settlements and their surroundings, combating anti-gypsyism and discrimination, and strengthening the implementation of measures at the local level.

Within the document, we have already mentioned measures related to the training of police and civil servants, which aim to reduce discrimination against Roma, but in order to combat discrimination and anti-gypsyism, the document also foresees improving the awareness of the majority population and members of the Roma community, which will be achieved through the co-financing of radio and television programmes for the Roma community.⁸¹ Another objective of the Strategy is to strengthen the institutional framework for the representation of the Roma community in Slovenia, and to empower and strengthen NGOs established by members of the Roma community. The objectives of co-financing Roma community NGOs are to strengthen their activities and integration into the wider society and at the same time to enhance the contribution of Roma organizations to the improvement of the situation of Roma, especially in the environments where they live.

The National Programme of Action for Roma is designed in such a way that the achievement of the objectives is realistic and verifiable; each of the key and subordinate objectives includes impact indicators, which will be used to verify the achievement of the objectives, and it is clear who the promoter of the measure is, what the measure is, how the financial resources are provided, what the foreseen resources are, and the timeframe for implementation.

While in general the National Strategies clearly articulate all the key shortcomings and challenges and set

related relevant goals, all tangible progress in the coming years will essentially depend on the real commitment of the state institutions to thoroughly implement the proposed policies and measures, including allocating sufficient financial resources and ensuring long-term sustainability. The current complexity and structural character of the problems described requires considerable financial investments as well as a close cooperation of government departments and municipalities. Given that municipalities may lack the commitment and/or expertise to receive project-based allocated sources and effectively implement measures to address exclusion of their local marginalized Roma communities, it is crucial that the state institutions provide them with all the necessary assistance.

Other relevant policies

In Slovakia, the particularly disadvantaged position of Roma women and their intersectional discrimination is recognized both in the Strategy of Roma Inclusion 2030 and in the National Strategy for Equality between Women and Men and Equal Opportunities in the Slovak Republic for 2021–2027.⁸²

In December 2021 the government adopted a comprehensive Strategy of Inclusive Approach in Upbringing and Education as a key framework document, which sets out the direction of strategic public policies to achieve more inclusive education of children, pupils and students by 2030.⁸³ The adopted Action Plan for 2022–2025 sets out the first measures for the implementation of the strategy.⁸⁴ However, voices from NGOs point out that the declared measures are insufficient and lack the potential to fundamentally remove segregation of Roma children in education at various levels.⁸⁵

In Slovenia, government reports on Roma people are important forms of documentation that provide an assessment of the situation of this minority group. The last report, covering 2020, highlighted which key events and projects in the area of awareness-raising and the fight against discrimination were implemented, which training events were carried out, how the cooperation of the different stakeholders at the local level is taking place, and it was also noted that municipalities' participation in the preparation of the government's annual reports is improving year by year, as is the exchange of information. The document also explains what has been happening within the municipalities where members of the Roma community live in terms of improving their situation.⁸⁶

Local strategies have also been prepared in some Slovenian municipalities where there is a high Roma

population. For example, the Set of Measures for Roma in Trebinje Municipality 2022–2030 states that it is necessary to raise awareness among members of the Roma community and the majority population of the positive effects of Roma inclusion in society and the richness that Roma cultures bring to Slovenian society. The document also highlights the importance of non-discrimination, as well as the need to step up actions against anti-Roma rhetoric, hate speech, stereotypes and prejudices.⁸⁷ The Strategy for Addressing Roma Issues in the Municipality of Brežice 2022–2030 states that it is necessary to raise the awareness of institutions and the public within the local environment about the presence and negative effects of anti-gypsyism and discrimination and to eliminate them, and that it is necessary to work on reducing discrimination against Roma children.⁸⁸ Other examples of local strategies from previous years include the Programme of Measures for Roma in Črnomelj Municipality 2017–2021,⁸⁹ the Strategy for the Development of the Roma Community in Pomurje 2013–2022,⁹⁰ and the Strategy for Addressing Roma Issues in the Municipality of Novo Mesto 2013–2020.⁹¹ Unfortunately, local strategies are often not up to date as when one of the programmes expires, the evaluation takes a long time before a new programme is launched.

It is also regrettable that in some of the large municipalities where a higher proportion of Roma live, local strategies have yet to be adopted. Furthermore, officials responsible for Roma issues have little knowledge of anti-discriminatory strategies, and they often established minimal contact with members of the Roma community, which deepens the lack of cooperation. It would be sensible to strengthen cooperation between municipalities characterized by larger Roma populations and to encourage the exchange of good practices. It would also make sense to strengthen cooperation with experts and to involve officials in training courses, which could help officials acquire knowledge about Roma cultural heritage, and which could lead to a reduction of anti-Roma bias among staff working officially with the Roma community. Although these types of training courses already exist, they should be more systematic, reaching out to a wider range of officials working with the Roma community. Such courses should be compulsory for officials living in areas with a high proportion of Roma. Within local strategies, discrimination is addressed too generally in the sense that strategies largely fail to specify solutions that would improve coexistence between Roma and majority populations. Roma, especially young people and women, should be involved in the development of local strategies. Although some Roma members are present in the local administrative bodies, these are often inaccessible for other members of the Roma community.

7 Conclusion

The findings presented in this report leave no doubt that the Roma minority continue to face widespread discrimination in many areas of public life in both Slovakia and Slovenia. Discrimination manifests itself in various forms and often has a deep-rooted structural character. Roma women, experiencing severe forms of intersectional discrimination, are particularly affected. Despite the high number of discrimination cases and the comprehensive anti-discrimination legislation in place, discriminated Roma are unable to pursue justice due to the ineffective implementation of these legal protections by courts and a range of other barriers, such as lack of knowledge about the concept and legal definition of discrimination, low awareness of legal remedies, institutional racism and low trust in the justice system, insufficient access to effective legal assistance and insufficient legal engagement of the equality bodies in providing legal assistance to them. There is still very little awareness about the existence, functioning and competences of the equality bodies among Roma who have experienced discrimination. In Slovenia, the few Roma who are aware of the role of the equality body and turn to it for help usually do not persist and withdraw from the procedure. Therefore, it would be necessary to simplify such procedures and to provide the members of the Roma community who face discrimination with enhanced legal support within the procedures.

Although the national anti-discrimination legislation provides sufficient legal basis for discriminated persons to effectively pursue justice in courts in both countries, without proper implementation efficient access to justice cannot be guaranteed. The need for improved education on anti-discrimination law for law students, legal practitioners and judges was stressed by both Slovakian and Slovenian legal experts.

Despite widespread discrimination against Roma identified through empirical and desk research in both countries, interviewees were rarely aware of any reported

discrimination cases. Under-reporting is explained by the lack of knowledge about existing anti-discrimination legislation, the available legal remedies and the rules of procedure of the equality bodies. In addition, Roma who have experienced discrimination often think that by reporting the case, the situation would not change anyway, or they do not trust state institutions. Fear of the consequences may also prevent them from confronting the perpetrator.

Those Roma who do know about an NGO or institution that they can turn to, are more willing to take legal action. Roma activists widely stated that Roma would appreciate more legal support, which might increase the number of reported cases. There was a wide consensus among interviewees in both countries that more cases and positive outcomes would discourage perpetrators from discrimination and would contribute to prevention. Despite interviewees in both countries articulating some disappointment, and the belief that the situation of Roma might never change, they all recognized the importance of pursuing Roma rights and reporting more cases of discrimination.

Over the years, the Slovakian and Slovenian authorities have failed to effectively address the social exclusion of Roma living in marginalized communities and prevent discrimination against them. The lack of sufficient and sustainable efforts from the government and municipalities in this regard not only maintains the extreme disadvantages experienced by Roma in many areas, but also makes fundamental change increasingly difficult to achieve. Structural discrimination and exclusion of Roma are deeply entrenched in many places and tangible changes require long-term coordinated efforts. The government authorities, in partnership with local municipalities, must take clear actions to realize inclusive, more cohesive communities and society, where everyone is treated with dignity.

8 Recommendations

For the European Commission:

- Thoroughly monitor the implementation of the National Strategy for Equality, Inclusion and Participation of Roma until 2030 in Slovakia and the National Programme of Action for Roma for the Period 2021–2030 in Slovenia, and their current and future action plans with regard to achieving tangible and effective progress in the inclusion and equality of Roma in both countries.
- Ensure that finances from EU structural funds invested for improving the living conditions of marginalized Roma effectively remove structural forms of discrimination, particularly segregation in housing, education and other areas, as well as institutional racism on various levels, such as deep-rooted institutional discrimination against Roma women in health care.

National decision-makers:

Slovakia

- Thoroughly implement recommendations of the international human rights bodies calling for the introduction of effective measures addressing ongoing social exclusion and discrimination of the Roma minority in all areas of public life with regard to international human rights obligations of Slovakia.
- Thoroughly implement the National Strategy for Equality, Inclusion and Participation of Roma until 2030 and the related action plans, while being increasingly committed to tackling deep-rooted structural forms of discrimination, particularly segregation in housing, education and other areas and institutional racism on various levels as well as intersectional discrimination of Roma women.
- Establish effective programmes, procedures and mechanisms to monitor, prevent and sanction all forms of discrimination against Roma women in health care facilities and eradicate the harmful consequences of such practices.
- Remove complex barriers that discriminated Roma face in access to justice, thereby significantly enhancing the speed and efficiency of court proceedings

concerning discrimination and the efficiency of administrative control bodies in this area.

- Introduce systemic measures to disrupt and eradicate patterns of institutional racism against Roma in the functioning of state institutions, particularly the police forces, law enforcement agencies, hospitals and courts.
- Address as a matter of urgency ongoing inadequate living conditions and lack of access to basic infrastructure in many Roma communities in cooperation with the local municipalities. Condition the distribution of national and regional funds on the development of desegregation policies and measures in housing and education towards achieving inclusive residential communities and schools, and improving inter-ethnic relationships and social cohesion at all levels of Slovak society.
- Ensure the independence and effective functioning of the Slovak National Centre for Human Rights (the equality body).

Slovenia

- Launch awareness-raising campaigns on discrimination for Roma to introduce them to the procedure before the Advocate of the Principle of Equality.
- Simplify the bureaucratic procedures and provide additional support for Roma to seek remedy in discrimination cases through legal procedures.
- Improve services for the provision of free legal assistance and advice at the state level and support NGOs working in this field.
- Introduce compulsory training on non-discrimination for officials and legal practitioners who deal with the Roma community in their work.
- Ensure Roma members of the consultative bodies rotate regularly.
- Ensure local decision-makers devote more of their budgets to raise awareness of discrimination both for members of the Roma community and for others.
- Increase the exchange of knowledge, experience and good practice among municipalities where Roma represent a high percentage of the population.

Equality bodies:

Slovakia

- Prioritize pressing and widely documented discrimination in Slovak society, including discrimination of the Roma minority and intersectional discrimination of Roma women.
- Increase awareness of the equality body among marginalized Roma and enhance the accessibility of complex legal assistance to them, including free legal representation in court proceedings.
- Make effective use of the legal institute of *actio popularis* to target incidents of structural discrimination against Roma.

Slovenia

- Raise awareness in the Roma community about discrimination and the available legal remedies.
- Encourage discriminated persons to report their cases to the equality body and provide them with legal support to pursue the procedure.
- Strengthen long-term cooperation with the Roma community in regions with large Roma populations and conduct regular field visits and establish contact points where discriminated Roma could be provided with support in dealing with the bureaucratic procedures required to report discrimination.

Notes

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- 73 In accordance with its competences and tasks as defined in Article 21 of the Act on Protection against Discrimination, the APE conducts proceedings to establish discrimination in individual cases and also provides independent assistance to persons subject to discrimination in exercising their rights in relation to protection against discrimination, in the form of counselling and legal assistance to the parties in other administrative and judicial proceedings related to discrimination.
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Equality and justice on the sidelines: Comparative report on discrimination against Roma and their access to justice in Slovakia and Slovenia

From an early age, Roma in Slovenia and Slovakia face widespread discrimination in various areas of their lives, including housing, education, employment, health care and policing, driven by persistent negative attitudes among the majority population towards Roma. Roma women often face multiple and intersectional discrimination based on their ethnicity and gender in both countries. The Covid-19 pandemic also amplified ongoing shortcomings in the protection of Roma rights.

As members of the European Union (EU), both countries have anti-discrimination legislation in place and an established equality body in compliance with the EU Racial Equality Directive. In practice, however, implementation remains poor: the number of cases of discrimination against Roma resolved by courts is still very low in both countries. Even among legal personnel, knowledge of anti-discrimination law is limited, and Roma themselves are often reluctant themselves to report incidents due to lack of awareness, mistrust of the judicial system or a generalized disbelief that their situation will change.

This publication, *Equality and justice on the sidelines: Comparative report on discrimination against Roma and their access to justice in Slovakia and Slovenia*, provides an overview of the current scope of discrimination against Roma, especially women, their lived experience and access to justice in Slovakia and Slovenia. Based on a combination of desk research and empirical study, namely a series of semi-structured interviews conducted with different stakeholders in both countries, it also includes a series of recommendations to achieve greater inclusion and equality in line with the stated commitment of both countries to protect their Roma populations.

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