SLOVAKIA

Follow-up - State Reporting
i) Action by Treaty Bodies

CAT, A/65/44 (2010)

Chapter IV. Follow-up to concluding observations on States parties' reports

65. In this chapter, the Committee updates its findings and activities that constitute follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the procedure established on follow-up to concluding observations. The follow-up responses by States parties, and the activities of the Rapporteur for follow-up to concluding observations under article 19 of the Convention, including the Rapporteur's views on the results of this procedure, are presented below. This information is updated through 14 May 2010, the end of the Committee's forty-fourth session.

66. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. In that report and each year thereafter, the Committee has presented information on its experience in receiving information on follow-up measures taken by States parties since the initiation of the procedure in May 2003.

67. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. In November 2009 and May 2010, the Rapporteur presented a progress report to the Committee on the results of the procedure.

68. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific measures to prevent acts of torture and ill-treatment. Thereby, the Committee assists States parties in identifying effective legislative, judicial, administrative and other measures to bring their laws and practice into full compliance with the obligations set forth in the Convention.

69. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information within one year. Such follow-up recommendations are identified because they are serious, protective and are considered able to be accomplished within one year. The States parties are asked to provide information within one year on the measures taken to give effect to the follow-up recommendations. In the concluding observations on each State party report, the recommendations requiring follow-up within one year are specifically identified in a paragraph at the end of the concluding observations.

70. Since the procedure was established at the thirtieth session in May 2003, through the end of

the forty-fourth session in May 2010, the Committee has reviewed 95 reports from States parties for which it has identified follow-up recommendations. It must be noted that periodic reports of Chile, Latvia, Lithuania and New Zealand have been examined twice by the Committee since the establishment of the follow-up procedure. Of the 81 States parties that were due to have submitted their follow-up reports to the Committee by 14 May 2010, 57 had completed this requirement. As of 14 May 2010, 24 States had not yet supplied follow-up information that had fallen due: Republic of Moldova, Cambodia, Cameroon, Bulgaria, Uganda, Democratic Republic of the Congo, Peru, Togo, Burundi, South Africa, Tajikistan, Luxembourg, Benin, Costa Rica, Indonesia, Zambia, Lithuania (to the 2009 concluding observations), Chad, Chile, Honduras, Israel, New Zealand, Nicaragua and the Philippines.

71. The Rapporteur sends reminders requesting the outstanding information to each of the States for which follow-up information is due, but not yet submitted. The status of the follow-up to concluding observations may be found in the web pages of the Committee at each of the respective sessions. As of 2010, the Committee has established a separate web page for follow-up (http://www2.ohchr.org/english/bodies/cat/follow-procedure.htm).

72. Of the 24 States parties that did not submit any information under the follow-up procedure as of 14 May 2010, non-respondents came from all world regions. While about one-third had reported for the first time, two-thirds were reporting for a second, third or even fourth time.

73. The Rapporteur expresses appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

74. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties which are posted on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website.

75. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

76. Among the Rapporteur's activities in the past year, have been the following: attending the inter-committee meetings in Geneva where follow-up procedures were discussed with members from other treaty bodies, and it was decided to establish a working group on follow-up; addressing the Committee on the Elimination of Discrimination against Women at its August 2009 meeting in New York concerning aspects of the follow-up procedure; assessing responses from States parties and preparing follow-up letters to countries as warranted and updating the information collected from the follow-up procedure.

77. Additionally, the Rapporteur initiated a study of the Committee's follow-up procedure, beginning with an examination of the number and nature of topics identified by the Committee in its requests to States parties for follow-up information. She reported to the Committee on some preliminary findings, in November 2009 and later in May 2010, and specifically presented charts showing that the number of topics designated for follow-up has substantially increased since the thirty-fifth session. Of the 87 countries examined as of the forty-third session (November 2009), one to three paragraphs were designated for follow-up for 14 States parties, four or five such topics were designated for 38 States parties, and six or more paragraphs were designated for 35 States parties. The Rapporteur drew this trend to the attention of the members of the Committee and it was agreed in May 2010 that, whenever possible, efforts would henceforth be made to limit the number of follow-up items to a maximum of five paragraphs.

78. The Rapporteur also found that certain topics were more commonly raised as a part of the follow up procedure than others. Specifically, for all State parties reviewed since the follow-up procedure began, the following topics were most frequently designated:

Ensure prompt, impartial and effective investigation(s)	76 per cent
Prosecute and sanction persons responsible for abuses	61 per cent
Guarantee legal safeguards	57 per cent
Enable right to complain and have cases examined	43 per cent
Conduct training, awareness-raising	43 per cent
Ensure interrogation techniques in line with the Convention	39 per cent
Provide redress and rehabilitation	38 per cent
End gender-based violence, ensure protection of women	34 per cent
Ensure monitoring of detention facilities/visit by independent body	32 per cent
Carry out data collection on torture and ill-treatment	30 per cent
Improve condition of detention, including overcrowding	28 per cent

79. In the correspondence with States parties, the Rapporteur has noted recurring concerns which are not fully addressed in the follow-up replies and her concerns (illustrative, not comprehensive) have been included in prior annual reports. To summarize them, she finds there is considerable value in having more precise information being provided, e.g. lists of prisoners, details on deaths in detention and forensic investigations.

80. As a result of numerous exchanges with States parties, the Rapporteur has observed that there is need for more vigorous fact-finding and monitoring in many States parties. In addition, there is often inadequate gathering and analysing of police and criminal justice statistics. When the Committee requests such information, States parties frequently do not provide it. The

Rapporteur further considers that conducting prompt, thorough and impartial investigations into allegations of abuse is of great protective value. This is often best undertaken through unannounced inspections by independent bodies. The Committee has received documents, information and complaints about the absence of such monitoring bodies, the failure of such bodies to exercise independence in carrying out their work or to implement recommendations for improvement.

81. The Rapporteur has also pointed to the importance of States parties providing clear-cut instructions on the absolute prohibition of torture as part of the training of law-enforcement and other relevant personnel. States parties need to provide information on the results of medical examinations and autopsies, and to document signs of torture, especially including sexual violence. States parties also need to instruct personnel on the need to secure and preserve evidence. The Rapporteur has found many lacunae in national statistics, including on penal and disciplinary action against law-enforcement personnel. Accurate record keeping, covering the registration of all procedural steps of detained persons, is essential and requires greater attention. All such measures contribute to safeguard the individual against torture or other forms of ill-treatment, as set forth in the Convention.

82. The chart below details, as of 14 May 2010, the end of the Committee's forty-fourth session, the replies with respect to follow-up. This chart also includes States parties' comments to concluding observations, if any.

Follow-up procedure to concluding observations from May 2003 to May 2010

...

Forty-third session (November 2009)

State party	*Information*	*Information received (including*	*Action taken*
...			
Slovakia	November 2010	-	
...			

...

Follow-up - State Reporting
(ii) Action by State Party

CAT, CAT/C/SVL/CO/2/Add.1 (2010)

Follow-up responses of Slovakia to the concluding observations of the Committee against Torture (CAT/C/SVK/CO/2)

[16 November 2010]

The Committee requested the State party to provide, within one year, information in response to the recommendations contained in paragraphs 8, 13, 14 and 15 of the Committee's concluding observations.

Reply to recommendation 4, paragraph 8, of the concluding observations (CAT/C/SVK/CO/2)

Non-refoulement and risk of torture

1. In the Slovak Republic, it is necessary to distinguish between the procedure for granting international protection and the procedure for the expulsion of a third-country national from the territory of the Slovak Republic. They are two separate procedures, with only an indirect link between them. Pursuant to Act No. 480/2002 Coll. on asylum and on amendments to certain acts, as amended (hereinafter referred to as the "Asylum Act"), a decision on international protection falls under the competence of the Migration Office. Under the said procedure, the Migration Office does not consider the principle of "non-refoulement," i.e., it does not examine the existence of obstacles preventing the return of third-country nationals to the country of their origin. The Migration Office solely considers the conditions for the granting of an asylum under this procedure, or for the granting of subsidiary protection, or a temporary asylum under the Geneva Convention and the New York Protocol, which is also reflected in the grounds for the granting of asylum or subsidiary protection. In case the Migration Office issues a decision pursuant to §12(3)(h) or (j) of the Asylum Act, the decision is not deemed a decision on return, expulsion or extradition of an individual to the country of origin or another country where he/she would face a risk of torture and other cruel, inhuman or degrading treatment.

2. If the Migration Office does not grant international protection and the third-country national is staying illegally in the Slovak Republic, a procedure on his/her administrative expulsion from the territory of the Slovak Republic commences. Conditions and a procedure applied in the case of the administrative expulsion of a third-country national from the Slovak territory are governed by Act No. 48/2002 Coll. on the stay of aliens and on amendments to certain acts (hereinafter referred to as the "Act on the Stay of Aliens"). An expulsion decision is made by competent police departments, namely alien police departments and border control units. It is only under this procedure that the existence of the "non-refoulement" principle is considered. The "non-refoulement" principle, arising from Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms and Article 3 of the UN Convention against Torture

and Other Cruel, Inhuman or Degrading Treatment or Punishment, published under No. 143/1988 Coll. in the Slovak Collection of Laws, is reflected in the Slovak national law in §58 of the Act on the Stay of Aliens, entitled "Obstacles to Administrative Expulsion".

3. A police department has an obligation to examine the existence of the obstacles to administrative expulsion of a third-country national from the territory of the Slovak Republic prior to issuing any such decision.

4. When examining these obstacles, the relevant police department mainly considers statements/testimony made by the third-country national within the procedure on administrative expulsion. In order to confirm or exclude the existence of obstacles to administrative expulsion, account is also taken of information about the country of origin obtained from a Migration Office documentation department which performs comprehensive documentation, information and analytical activities concerning individual countries of origin; such activities mainly involve search, collection, analysis and provision of such information to competent institutions. Further, information about the country of origin provided by the Ministry of Foreign Affairs of the Slovak Republic and information sent by police attaches at Slovak diplomatic missions abroad are also examined.

5. If the existence of obstacles to administrative expulsion is not confirmed, the police department is required to specify, in the reasoning to the decision on administrative expulsion, that no obstacle to administrative expulsion exists and that it has considered this fact, i.e., that the police department has examined the existence of obstacles to administrative expulsion.

6. If the police department confirms that obstacles to administrative expulsion exist, the decision on administrative expulsion of a third-country national will not be issued. This constitutes a legal basis for the granting of a tolerated stay permit to the third-country national concerned, pursuant to §43(1)(1) of the Act on the Stay of Aliens.

7. A third-country national may submit an appeal against the decision on administrative expulsion within 15 days of its delivery. If the police department does not uphold the appeal, the appeal will be referred to the next superior administrative authority no later than within 30 days of its delivery. Once the decision becomes final, the third-country national can file an action with a relevant regional court under §250c of Act No. 99/1963 Coll., the Code of Civil Procedure, as amended. In that case, the decision on administrative expulsion becomes enforceable but the court may adopt a resolution to suspend its enforceability.

8. All third-country nationals must be advised on the possibility to file an appeal in a language they understand.

9. A third-country national may apply for international protection under the Asylum Act at any stage of the administrative expulsion procedure, as well as at the stage of the decision enforcement. Once the application for international protection has been received, the third-country national is entitled to stay in the territory of the Slovak Republic pursuant to §22 of the Asylum Act, which, at the same time, represents an obstacle to the enforcement of the decision on administrative expulsion, until a final decision on international protection is

delivered.

10. Regarding the comment concerning a low rate of successful asylum applications, the following applies:

11. Activities of the Migration Office are governed by Act No. 480/2002 Coll. on asylum which implements EU directives and the Geneva Convention of 1951. Under the said Act, the Migration Office conducts a first-instance asylum procedure with respect to those third-country nationals who have applied for asylum, subsidiary protection, or temporary asylum in the territory of the Slovak Republic.

12. Each asylum application or application for subsidiary protection is examined separately; an initial interview is conducted with each applicant; more interviews may be held if necessary. After the submission of application and throughout the entire asylum procedure, the applicant has a right to receive free-of-charge legal assistance. Applicants are notified of this fact immediately after their entry into the asylum procedure, which ensures that the asylum procedure is conducted impartially. The most recent information about the country of applicant's origin are obtained and inserted in a case file, and reasons and other means of evidence submitted by the applicant or the Migration Office are also evaluated. Such a comprehensive case file on the applicant serves for a detailed evaluation and preparation of a decision.

13. In cases when asylum has not been granted within the asylum procedure, the Migration Office may grant subsidiary protection to the applicant if there are good reasons to believe that the applicant would face a real risk of serious harm if returned to his/her country of origin. This means, in practice, that unsuccessful applicants are not returned to the country of their origin (e.g., subsidiary protection was granted to 96 unsuccessful asylum applicants in 2009, and to 30 unsuccessful applicants in the first half of 2010).

14. If the applicant or his/her legal counsel does not agree with the decision, he/she may file an appeal against that decision.

15. The protection of applicants' rights is safeguarded by the possibility to seek a judicial review of relevant decisions, by a regional court or the Supreme Court of the Slovak Republic. Applications may also be reviewed by the Constitutional Court of the Slovak Republic or the European Court of Human Rights.

Reply to recommendation 9, paragraph 13, of the concluding observations

Allegations of torture and ill-treatment in police custody

16. The police pay increased attention to the investigation of the said crimes. Supervision over compliance with law prior to the prosecution and in pre-trial proceedings is exercised by prosecutors. The Office of Judicial and Criminal Police of the Presidium of the Police Force monitors investigations of serious crimes and, if necessary, provides methodological and practical guidance.

17. Police investigators conduct their investigations in such a manner so as to obtain

information, as quickly as possible, that may clarify the act in the extent necessary in order to assess the case and identify a perpetrator. Submissions made by citizens are handled within statutory deadlines. Upon delivery of a criminal complaint, a police investigator is obliged to decide on it without delay, but not later than within 30 days of its receipt.

18. Within the Control and Inspection Service Section at the Ministry of the Interior of the Slovak Republic, crimes committed by Police Force members are investigated by an investigator from the Inspection Service Department who pays necessary attention to the particular issue. Each submission is examined by a police investigator from the Inspection Service Department of the Control and Inspection Service Section of the Ministry of the Interior of the Slovak Republic, and decided upon in a manner prescribed by the law. It should be noted in this context that supervision over compliance with the law prior to the prosecution, and in pre-trial proceedings, is exercised by prosecutors. Each decision issued by a police investigator on the matter itself is reviewed mainly by a competent military prosecution service.

19. In order to ensure fast-track and impartial investigation, the Control and Inspection Service Section of the Ministry of the Interior of the Slovak Republic proposed amending §196(2) of Act No. 301/2005 Coll., the Code of Criminal Procedure, with the aim of making it possible to also hear out a victim, in addition to the complainant, if necessary in order to complement a criminal complaint once it has been received. The proposed amendment was adopted by Act No. 224/2010 Coll. which amends Act No. 300/2005 Coll., the Penal Code, as amended, and on amendments to certain acts, with effect from 1 September 2010.

20. The Control and Inspection Service Section of the Ministry of the Interior of the Slovak Republic keeps internal statistics on crimes committed by Police Force members. For the period from 2007 to 2009 and up to 30 June 2010, it has no records of any crime of torture or other inhuman or cruel treatment pursuant to §420 of the Penal Code with which a Police Force member would have been charged.

21. The prosecution service discharges its powers by prosecuting persons suspected of having committed crimes, supervising compliance with the law prior to the prosecution, as defined under a separate regulation and in pre-trial proceedings, supervising compliance with the law in places where persons deprived of their personal liberty or persons whose personal liberty has been restricted under a judicial decision or a decision made by other competent state authority are detained, as well as by exercising its rights in judicial proceedings pursuant to relevant provisions of Act No. 153/2001 Coll. on the prosecution service as amended and relevant provisions of the Penal Code and the Code of Criminal Procedure.

22. No case of torture or cruel, inhuman or degrading treatment has been reported to military district prosecutor's offices or to the Higher Military Prosecutor's Office in Tren_ ń, which, pursuant to a measure issued by the Prosecutor General of the Slovak Republic, supervise compliance with the law with respect to criminal prosecution of Police Force members and members of the Corps of Prison and Court Guard. Equally, no cases of ill-treatment or any violations of statutory requirements concerning the handcuffing of detained persons have been reported.

23. However, for the sake of prompt and impartial investigation, the special purpose department of the Prosecutor General's Office of the Slovak Republic has supervised, pursuant to a measure issued by the Prosecutor General of the Slovak Republic, the criminal prosecution of the 10 police officers charged with abuse of official authority.

24. Following the investigation, a prosecutor from the special purpose department of the Prosecutor General's Office of the Slovak Republic brought charges against the said Police Force members with the Košice II District Court on 12 May 2010. The case is still pending final decision. Differentiated sentences have been proposed for the accused police officers at the upper level of the lower limit of applicable criminal sanctions. In addition, seven of the ten accused police officers had already been dismissed from the Police Force at the time when the criminal charges were filed. They were dismissed from the service on grounds of severe violation of the official oath or duties, because their further stay in the service would harm the major interests of the civil service.

25. As far as the crime of torture pursuant to §420 of the Penal Code is concerned, the lower level of the applicable custodial sentence has been increased from the original six months to three years or a ban to conduct official duties for two to six years, and the upper level of the applicable custodial sentence has been increased from the original eight to 15 years to 12 to 20 years.[1]

26. The Justice Information and Statistics Section of the Ministry of Justice of the Slovak Republic regularly collects, keeps, processes and evaluates statistical data concerning the number and types of crimes committed, types of sentences imposed on perpetrators, and the number of convicted persons. These statistics are then presented in a Statistical Yearbook of the Ministry of Justice of the Slovak Republic, published on the publicly accessible website of the Justice Ministry.

27. In connection with the protection of rights of victims of violent crimes, including torture and other cruel, inhuman or degrading treatment or punishment, ratification of the European Convention on the Compensation of Victims of Violent Crimes adopted by the Council of European and opened for signature in Strasbourg on 24 November 1983 represents the most significant progress made by the Slovak Republic with respect to compensation to victims. The Slovak Republic signed the Convention in Strasbourg on 14 December 2006 and the President of the Slovak Republic ratified it on 20 February 2009. The instrument of ratification was deposited with the Secretary General of the Council of Europe, a depositary of the Convention, on 12 March 2009. Upon depositing the instrument of ratification, the Slovak Republic availed itself of one reservation and made one declaration.[2] With regard to the Slovak Republic, the Convention entered into force on 1 July 2009 in compliance with Article 16(2) of the Convention.

28. Conditions for the ratification of the said Convention were created by the adoption of Act No 215/2006 Coll. on the compensation of victims of violent crimes, as amended by Act No. 79/2008 Coll. The aforementioned legislation is also part of the international commitments the Slovak Republic undertook to fulfil in connection with its entry to the European Union on 1 May 2004. It has transposed Council Directive 2004/80/EC of 29 April 2004 relating to compensation of crime victims (hereinafter referred to as the "Directive") into the legal system of the Slovak

Republic. The Directive has been transposed with the aim of improving access to the means of compensation for any injury caused by a deliberate violent crime committed within the territory of a Member State different than the Member State in which the victim has a permanent residence. For this purpose, a mechanism for filing compensation claims has been established and a Slovak national authority competent for decision-making on such claims set up, along with a national authority which assists victims who are Slovak nationals or nationals of another Member State having permanent residence in the territory of the Slovak Republic or stateless persons with permanent residence in the territory of the Slovak Republic who have suffered bodily harm in the territory of another Member State, in filing compensation claims. The compensation system (substantive law) has not changed; only the procedural rules have been amended. The said Act ensures continuity in the provision of compensations to victims of violent crimes provided by the Ministry of Justice of the Slovak Republic, improves their access to information on possible compensations, facilitates the provision of compensations for bodily harm sustained in the territory of another Member State, thus reinforcing the position of victims in this area. At the same time, it strengthens the position of victims under procedural law, as it primarily governs procedural aspects while relevant provisions of substantive law remain unchanged.

29. Any crime victim who is a Slovak national or a national of another Member State or a stateless person with permanent residence in the territory of the Slovak Republic or another Member State may submit a compensation claim if that person suffered bodily harm in the territory of the Slovak Republic. Compensations are awarded and paid by a decision-making authority, the Ministry of Justice of the Slovak Republic, upon a request submitted by the victims in writing.

30. On 1 January 2006, a Legal Aid Centre was established in the Slovak Republic as a state-funded organisation with its registered office in Bratislava pursuant to Act No. 327/2005 Coll. on the provision of legal aid to persons in material need and on amendments to Act No. 586/2003 Coll. on advocacy, and on amendments to Act No. 455/1991 Coll. on trade licences, as amended, as amended by Act No. 8/2005 Coll., as amended. The Centre is funded from the State budget, through the budget chapter of the Minister of Justice of the Slovak Republic as its founder. The Centre ensures the provision of legal assistance to natural persons who, due to being in material need, cannot afford regular legal services to properly exercise and defend their rights. The Centre provides legal assistance on issues concerning civil, labour and family law to all natural persons who meet statutory requirements (national litigations). In cross-border litigations, legal assistance pursuant to the said Act is provided in matters of civil, labour, family and business law only to natural persons who meet statutory requirements and have permanent address or habitual residence in the territory of a Member State.

31. The applicable legislation allows Police Force members to handcuff persons to suitable objects, as provided in §52(2) of Act No. 171/1993 Coll. on the Police Force, as amended. Radiators or fixtures are not considered suitable objects, though they are scarcely used, especially in cases when a larger number of detained persons are present at a relevant police department and they are aggressive, or where it is necessary to separate the detained persons for tactical purposes. Persons handcuffed to a suitable object must be kept in places without public access, or where public access is restricted. A chair or a bank is placed next to such suitable

objects.

32. It should further be noted that several police departments have, where possible (some problems may occur in older buildings), so-called restricted suitable rooms for the placement of persons whose personal liberty has temporarily been restricted in line with the specifications of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (detained persons are placed in a restricted area so that they cannot be seen by the public in order to avoid any harm to their personal integrity, the premises are well lit, clean, equipped with a chair or bank, and a CCTV system in some cases).

33. If any cases of ill-treatment demonstrably occur, they usually involve individual fault, the occurrence of which cannot completely be avoided, not even by means of system measures. The necessary system measures designed to prevent the occurrence of such individual faults on the part of police officers are included in Act No. 171/1993 Coll. on the Police Force, as amended.

34. Additional measures are defined in internal regulatory acts issued by the Ministry of the Interior of the Slovak Republic and the Police Force in order to prevent such ill-treatment by police officers. One of such regulatory acts is Ordinance of the Police Force President No. 17/2008 on the activities of basic departments of the police patrol service as amended, which specifies the procedures which a police officer should comply with in discharge of his/her official duties with respect to persons whose personal liberty has been restricted.

35. Pursuant to Order of the Minister of the Interior of the Slovak Republic No. 21/2009 concerning the tasks to prevent the violation of human rights and freedoms by officers of the Police Force and the Railway Police when performing interventions and restricting personal liberty, the following tasks has been assigned to officers of the Police Force and the Railway Police: "Control activities should be more focused on the conduct of Railway Police officers when performing interventions against individuals; findings from control activities should be analysed and measures to remove any shortcomings and their causes taken within five days of the date of control performance".

36. Any proven unauthorised use of power and official authority by a Police Force or Railway Police officer is penalised in compliance with the applicable laws of the Slovak Republic, under applicable disciplinary rules or under the criminal law.

37. As far as the penalisation of such conduct is concerned, it should be noted that an individual has the possibility of recourse to control mechanisms available from the Police Force and, last but least, from the Ministry of the Interior of the Slovak Republic. This is a multi-tiered system. The basic level involves the control performed by superior officers when assessing the discharge of official duties by Police Force members under §64(1) and (2) of Act No. 171/1993 Coll. on the Police Force, as amended. Controls at the next level are carried out by control sub-departments or departments at individual Police Force regional directorates within the scope of their territorial jurisdiction.

38. At the next level, control activities are performed by the Control Department of the Presidium of the Police Force which reports directly to the President of the Police Force, while

final level controls are ensured by the Control and Inspection Service Section of the Ministry of the Interior of the Slovak Republic. The Control Department of the Presidium of the Police Force has jurisdiction over all units and departments of the Presidium of the Police Force, individual regional directorates and units falling within their remit. The Control Department of the Control and Inspection Service Section of the Ministry of the Interior of the Slovak Republic has jurisdiction over all units and departments of the Interior Ministry.

Reply to recommendation 10, paragraph 14(a), of the concluding observations

Sterilizations of Roma women

39. **Regarding** sterilisation of Roma women, a police investigator (hereinafter referred to as the "investigator") with the then Košice Regional Office of the Justice Police commenced, on 31 January 2003, criminal prosecution for the crime of genocide under §259(1)(b) of the Penal Code (Act No. 140/1961 Coll., effective until 31 December 2005), which was allegedly committed during an unidentified period from 1999 by doctors employed with the gynaecologic and obstetrics department of the Krompachy Hospital, the Spišská Nová Ves district. Pursuant to a submission made by the victims, I.G. and R.H, doctors unreasonably, and without their prior consent, performed sterilisation on the victims during childbirth, which made them permanently sterile. According to information published by several media, another 26 similar interventions allegedly occurred in the Krompachy Hospital and other gynaecologic and obstetrics departments throughout Slovakia during the aforementioned period. The aim was to reduce the number of the Roma population in Slovakia by performing sterilisations on Roma women, unreasonably and without their consent, which rendered them permanently sterile.

40. In order to ensure the performance of special tasks in connection with the investigation and documentation of this criminal activity, a specialised team was set up at the _ilina Regional Office of the Justice Police by Order of the Minister of the Interior of the Slovak Republic on 4 March 2003. The investigation was conducted under case file No.: KUJP-15/OVVK-2003.

41. Based on the facts established during the investigation, the investigator in charge issued a decision on 24 October 2003 pursuant to §172(1)(a) of the Code of Criminal Procedure (Act No. 141/1961 Coll., effective until 31 December 2005) to discontinue the prosecution on the grounds that the prosecuted offence had not been committed.

42. Subsequently, the specialised team was dissolved on 31 December 2003 under an order issued by the Minster of the Interior of the Slovak Republic.

43. A complaint was filed by the victims, I.G., R.H. and M.K., against the investigator's decision through their authorised representative. The complaint was dismissed by the Košice Regional Prosecutor's Office (hereinafter referred to as the "Regional Prosecutor's Office") as unfounded on 28 September 2005, by a resolution issued pursuant to §148(1)(c) of the Code of Criminal Procedure (Act No. 141/1961 Coll., effective until 31 December 2005).

44. On 28 November 2005, the victims, I. G., R. H. and M. K., filed a complaint, through their authorised representative, with the Constitutional Court of the Slovak Republic (hereinafter referred to as the "Constitutional Court") in which their alleged violation of their basic rights

under Article 12(2), Article 16(2), Article 19(2) and Article 41(1) of the Constitution of the Slovak Republic (hereinafter referred to as the "Constitution") and rights under Article 3, 8, 13 and 14 of the Convention on Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the "Convention").

45. On 13 December 2006, the Constitutional Court issued finding No. III. ÚS 194/06-46 in which it ruled that the decision of the Regional Prosecutor's Office to dismiss the complaint filed by I.G., R.H. and M.K. had violated their basic right guaranteed under Article 16(2) and Article 19(2) of the Constitution, as well as their rights under Article 3 and 8 of the Convention. The Constitutional Court repealed the decision of the Regional Prosecutor's Office and instructed that the case be re-opened.

46. As a follow-up to the finding of the Constitutional Court of the Slovak Republic No. III ÚS 194/06-46 of 13 December 2006, a prosecutor with the Košice Regional Prosecutor's Office revoked on 9 February 2007, by resolution No.1 Kv 18/03, the resolution of the police investigator to stay the criminal proceedings, and instructed that the case be re-opened and decided anew

47. Based on the aforementioned decision, the investigation team resumed its work.

48. The investigation team based its activity on the finding of the Constitutional Court and performed tasks according to the instructions by the supervising prosecutor from the Regional Prosecutor's Office.

49. Taking into account the results of the investigation carried out within the scope of the finding of the Constitutional Court, the investigator stayed the criminal proceedings by a resolution issued pursuant to §215(1)(b) of the Code of Criminal Procedure (Act No. 301/2005 Coll., in force from 1 January 2006), because the act concerned was not a crime and therefore there are no grounds to refer the case for further proceedings.

50. The authorised representative of I.G., R.H. and M.K filed a complaint on their behalf against the aforementioned resolution on 4 January 2008.

51. On 19 February 2008, the supervising prosecutor of the Regional Prosecutor's Office dismissed the complaint as unfounded by a resolution issued pursuant to §193(1)(c) of the Code of Criminal Procedure (Act No. 301/2005 Coll., in force from 1 January 2006).

52. The investigator's resolution to stay the criminal proceedings in the case at hand became final.

53. During the investigation, all obtainable evidence necessary to ascertaining the facts of the case and clarifying facts relevant for the decision was collected.

54. The investigation results imply that no cases of forced sterilisation or other infringements of reproductive freedom of the Roma in Slovakia have been ascertained, and that no sterilisation has been performed with the intention of preventing childbirths in the Roma community in

Slovakia.

55. A total of 129 procedural steps, including six extensive confrontations, were taken in the course of the investigation. A total of 101 persons were interrogated, including:

- Persons claiming to be affected by sterilisation;
- Legal representatives of persons who were under 18 years of age when the medical intervention was performed;
- Persons who did not feel affected by sterilisation, but answered a call made by the police;
- Doctors and medical personnel.

56. Pursuant to the Constitutional Court's finding, the victims, I.G., R.H. and M.K., and medical doctors from the Krompachy Hospital were confronted.

57. An expert opinion was prepared by the Faculty of Medicine of Comenius University in Bratislava, dated 16 September 2003. The opinion implied that the responsible doctors acted in compliance with applicable regulations in all particular cases of sterilisation, and that sterilisations were only performed with the consent of all the women concerned, and for the purpose of protecting their life and health. Not a single case of unlawful sterilisation has been identified.

58. With respect to the assessment of how the investigation into the alleged cases of forced sterilisations of Roma women was conducted, whether criminal proceedings were initiated and perpetrators punished, and whether the victims were awarded fair and adequate compensation, mention should be made of a report by the Council of Europe Commissioner for Human Rights of 29 March 2006 (CommDH(2006)5):

59. "The allegations of forced and coerced sterilisations of Roma women in Slovakia were considered as a possible grave violation of human rights and therefore taken very seriously by the Slovak Government. A considerable effort was devoted to their thorough examination. In addition to a criminal investigation, a professional medical inspection of healthcare establishments was organised and an expert opinion of the Faculty of Medicine of the Comenius University in Bratislava requested. It was not confirmed that the Slovak Government would have supported an organized discriminatory sterilisations' policy. Legislative and practical measures were taken by the Government in order to eliminate the administrative shortcomings identified in the course of inquires and to prevent similar situations from occurring in the future."

60. The report was quoted in decisions of the European Court of Human Rights on the admissibility of application No. 15966/04, I.G., M.K. and R.H. v Slovakia of 22 September 2009, and No. 18968/07, V.C. v Slovakia of 16 June 2009, in which the applicants alleged that in connection with their sterilisation, their rights guaranteed under the Convention were violated.

61. The Government's opinion on complaint No. 15966/04, V.C. v Slovakia of 30 November

2009, stated the following with respect to the recommendation made by the Council of Europe's Human Rights Commissioner to establish an independent commission to offer redress to the victims of unlawful sterilisations:

> 29. "With respect to the recommendation made by the Council of Europe's Human Rights Commissioner - to establish an independent commission to offer redress to the victims of unlawful sterilisations - which was included in the Report on the Slovak Republic of 29 March 2006 (CommDH(2006)5) quoted by the Court in its decision on the admissibility of the application of 22 September 2009, the Government states the following: The Government approaches the report in all seriousness. However, with respect to the particular recommendation to establish a separate commission, the Government deems it necessary to point out that the Ministry of Health of the Slovak Republic established a control commission in 2003, in order to investigate the so-called case of alleged unlawful sterilisations. This commission conducted a ministerial control of gynaecologic and obstetrics departments in eleven healthcare facilities. The commission reviewed the health records of ca. 3 500 sterilised women and ca. 18 000 women who had undergone the caesarean section dating back ten years. The commission found out, inter alia, that in regions where it was possible to indirectly assess the share of Roma patients in the overall number of women, the number of sterilisations and caesarean sections was significantly lower in the Roma population than in the rest of the population. The commission did not discover any intentional practice of forced sterilisations of Roma women. It only discovered exceptional failures to meet administrative requirements associated with sterilisations, such as missing additional approval of a sterilisation by a committee in cases of urgent surgeries, failure to issue letters of appointment for sterilisation committee members, etc. These concerned women regardless of their ethnic origin."

62. At present, the Slovak courts have nine (9) cases on file, in which women of Roma origin were or still are seeking compensation for material or non-pecuniary damage in connection with sterilisation carried out pursuant to the relevant provisions of the 1972 Decree on Sterilisation. Of this number, four proceedings were concluded with finality: in three cases the claims were dismissed, and in one case the decision was in favour of the plaintiff. The remaining proceedings are still in progress.

Reply to recommendation 10, paragraph 14(b), of the concluding observations

Sterilizations of Roma women

63. The Slovak Republic has immediately taken appropriate legislative measures with regard to the alleged forced sterilisations of Roma women. Healthcare laws have been thoroughly reviewed; the National Council of the Slovak Republic has adopted Act No. 576/2004 Coll. on healthcare, healthcare-related services and on the amendment of certain acts, as amended. The Healthcare Act has introduced the notion of an informed consent and provides that sterilisation may only be performed on the basis of a written request and written informed consent given by a duly advised person with full legal capacity or by a legal guardian of a person incapable of giving informed consent, supplemented with a written application and a court decision issued on

the basis of an application filed by the legal guardian. The advice prior to informed consent must include information on alternative methods of contraception and family planning, a possible change in living conditions that have led to the request for sterilisation, medical consequences of the sterilisation as a procedure which results in irreversible infertility, and on possible failures of sterilisation. A request for sterilisation is filed with a healthcare provider performing such procedures. The request for female sterilisation is examined, and the procedure performed, by a gynaecology and obstetrics specialist. The request for male sterilisation is examined, and the procedure performed, by a urology specialist. The sterilisation procedure cannot be performed sooner than 30 days after the informed consent is provided. Act No. 576/2004 Coll. on healthcare, healthcare-related services and on amendment to certain acts has also amended the Penal Code and introduced "unlawful sterilisation" as a new element of crime. The provisions of the new Penal Code (Act No. 300/2005 Coll.) incorporating the aforementioned element of crime apply in the Slovak Republic as of 1 January 2006. Under §159 of the Penal Code, "unlawful sterilisation" is a crime against health and represents a severe breach of human rights. By establishing this element of crime, the Slovak Republic implemented its international law commitments which arise from international instruments on the protection of human rights and fundamental freedoms, as well as other recommendations of relevant international bodies and organisations.

64. The institution authorised to monitor the provision of informed consent in Slovakia (including informed consent to sterilisation) is the Healthcare Surveillance Authority, which was established under Act No. 581/2004 Coll. on health insurance companies, healthcare surveillance and on the amendment of certain acts, as a legal person vested with performing surveillance of healthcare and public insurance in the field of public administration. So far, the Ministry of Health of the Slovak Republic has not registered any petition pertaining to any misconduct associated with the provision of informed consent when performing sterilisation procedures. Due to the following reason, we do not currently perceive the provision of informed consent as problematic.

65. The provision of due advice to the patient is guaranteed under §6 on Advice and Informed Consent in Act No. 576/2004 Coll. on healthcare. The provision obliges the attending health worker to provide advice in a comprehensible and considerate manner, without pressure, and with the possibility and sufficient time to make a free decision on informed consent, and adequately in relation to the intellectual and volitional capacities and health conditions of the advised person.

66. As part of the Programme for the promotion of health of disadvantaged communities in Slovakia 2009-2015, community health education staff work directly in the selected segregated and separated Roma settlements and localities, supervised by public health staff from the relevant regional public health offices. The community health education staff ensure communication between the population of segregated and separated Roma settlements and locations and doctors, nurses, midwives and public health staff, and disseminate elementary healthcare awareness and knowledge in the community. The programme is focused on health education and problematic issues such as personal hygiene, prevention of infectious diseases, sexual and reproductive health and responsible parenthood, handling food, know-how concerning the marking of foodstuffs, environmental protection, prevention of injuries and

accidents, healthcare (awareness of rights and obligations of patients, health insurance, preventive check-ups, etc.), child care.

67. Illegal sterilisations were not proven and if a person thinks they were sterilised illegally, they may seek redress at court (or, in the case of suspected misconduct in the provision of informed consent, by submitting a complaint to the Healthcare Surveillance Authority).

Reply to recommendation 11, paragraph 15(a), of the concluding observations

The Roma minority

68. The Police Force and its officers carry out their official duties in compliance with the legislation of the Slovak Republic. The Police Force may act solely on the basis and within the scope of the Constitution, and its actions shall be governed by procedures laid down by law (Article 2(2) of the Constitution). The separate regulation governing the actions of the Police Force is the Act of the National Council of the Slovak Republic No. 171/1993 Coll. on the Police Force, as amended (hereinafter the "Police Force Act"). Pursuant to §1(3) of the Police Force Act, in the performance of its tasks, the Police Force shall abide by the Constitution, constitutional laws, laws and other regulations and international treaties generally binding on the Slovak Republic. Also, the actions of the Police Force and its officers are governed by internal regulatory acts issued by the Ministry of the Interior of the Slovak Republic and by the Police Force Presidium.

69. Pursuant to §8(1) of the Police Force Act, police officers "must carry out their duties with due regard to the honour, reputation and dignity of the other person and their own, they must not allow unwarranted harm to be caused to the person in connection with the exercise of their duties, and must ensure that any possible interference with the person's rights and freedoms is commensurate with the purpose to be achieved by the actions in the line of duty." Based on the quoted provision, police officers carry out their official duties in such a way as to achieve the intended purpose without degrading or humiliating the person, inadequately interfering with his/her rights and freedoms or inflicting unwarranted loss of life or damage to health, property, social status, personality, etc. Police officers must employ this approach towards all persons regardless of their colour, race, nationality, citizenship, political views, religion, etc. It is unacceptable for a police officer to violate the above legal provision during the discharge of his/her official duties in respect of any person, or to violate it in a biased manner only in respect of a certain specific person or group.

70. It should be pointed out that, within the scope of authority vested in them by the Police Force Act and other generally binding regulations, the Police Force and the police officers apply the same procedure in respect of the Roma as they do in respect of other persons, whose rights and freedoms may be affected in the course of discharging their official duties.

71. The legal provision at hand further obliges police officers to comply with the Code of Ethics of Police Officers issued by the Minister of the Interior of the Slovak Republic. This authorising clause established a legal basis for the issuance of a Code of Ethics of Police Officers by the Minister of the Interior of the Slovak Republic, based on which Regulation of the Minister of the Interior of the Slovak Republic No. 3/2002 on the Code of Ethics of Police Officers was

issued and came into effect on 1 February 2002 (hereinafter the "Regulation on the Code of Ethics). The quoted internal regulatory act contains provisions governing the behaviour of police officers. Article 8 of the Annex to the Regulation on the Code of Ethics lays down the following in respect of police officers' behaviour towards citizens and persons: "The police officer's actions towards citizens shall be transparent. A police officer acts politely, respectfully, tactfully and considerately towards all persons regardless. He/she shall refrain from violence; means of coercion shall only be used under the conditions and in a manner stipulated by law."

72. Where in the discharge of official duties a police officer interferes with a person's rights and freedoms, the provision of §8(2) of the Police Force Act obliges the police officer "to advise the person as soon as possible on his/her rights laid down in this Act (the Police Force Act) or another generally binding regulation". The above provision implies that any interference with a person's rights and freedoms by a police officer is conditioned by the obligation to advise that person on his/her rights ensuing from the legislation of the Slovak Republic. However, it should also be pointed out that the advice must be given "as soon as possible," i.e. immediately after or in the course of interference with the person's rights and freedoms. If in the discharge of official duties a police officer encounters a situation, where it is not possible to advise the person immediately (for example if the person actively or passively resists, or sustains an injury with the subsequent administration of first aid and calling of the emergency medical service), the police officer is obliged to advise the person immediately after the cessation of such circumstances. The phrase "as soon as possible" must be construed and interpreted within the context of the entire provision of §8(2) of the Police Force Act, pursuant to which it is not in the discretion of the police officer, but rather depends on the particular situation and circumstances surrounding the interference with the person's rights and obligations.

73. With a view to ensuring a uniform approach in preventing the violation of human rights and freedoms, on 24 July 2009, the Minister of the Interior of the Slovak Republic issued Order No. 21/2009 concerning the tasks to prevent the violation of human rights and freedoms by officers of the Police Force and Railway Police when performing interventions in the line of duty and restricting personal liberty. The order laid down several tasks aimed at improving the quality of preparation of Police Force and Railway Police officers for their duties in respect of observing human rights and freedoms and compliance with the law. It includes, inter alia, tasks concerned with analysing internal regulatory acts that govern the activity of Police Force and Railway Police officers when performing interventions in the line of duty, with a view to refining them.

74. The adoption of this order in mid 2010, as well as the performance of the assigned tasks by superiors at the relevant management level, hints at the efforts by officials at the Ministry of the Interior of the Slovak Republic, the Police Force Presidium and the Railway Police Directorate General to improve the effectiveness of measures aimed at preventing individual failures of Police Force and Railway Police officers associated with the violation of rights and freedoms of persons, and the violation of generally-binding regulations and internal regulatory acts issued by the Ministry of the Interior of the Slovak Republic, the Police Force Presidium and the Railway Police Directorate General.

75. In 2006, the Police Force Presidium issued a guide for advising detained persons. The guide contains advice in several foreign languages, including the Roma language.

76. Thus, detained persons of Roma origin can also become aware of their rights in their own mother tongue, which may help them to better understand their rights and make better and more effective use of them in the course of the proceedings.

77. It should also be noted that a prosecutor oversees compliance with the law in premises where persons deprived of personal liberty or persons with restricted personal liberty are detained. If illegal conduct is observed, the prosecutor is authorised to take measures.

78. Each submission indicating mistreatment of detained persons is examined and decided upon in accordance with the law by the investigator or authorised police officer (hereinafter "authorised officer") of the Inspection Service Department of the Control and Inspection Service Section at the Ministry of the Interior of the Slovak Republic. Upon receipt of a criminal complaint, the investigator or authorised officer proceeds individually with all due seriousness, while his/her conduct must conform to and be within the limits of Act No. 301/2005 Coll., the Code of Criminal Procedure, as amended. Each decision issued by the investigator or authorised officer in the relevant case is examined by the relevant prosecutor's office.

79. The Control and Inspection Service Section at the Ministry of the Interior of the Slovak Republic initiated an amendment to the provision of §196(2) of Act No. 301/2005 Coll., the Code of Criminal Procedure, as amended, pertaining to the interrogation of persons. This was aimed at making it possible to also question the victim in addition to the complainant, where a received criminal complaint needs to be completed. Act No. 224/2010 Coll. on the amendment of Act No. 300/2005 Coll., the Penal Code, as amended, and on the amendment of certain acts, extended the provision of §196(2) of the Code of Criminal Procedure to also include the possibility to question the victim, with effect as of 1 September 2010. Pursuant to §201(2) of the Code of Criminal Procedure, evidence taken by the police officer in the course of investigation shall be to the extent necessary for the examination of the case. The prosecutor oversees compliance with the law prior to the commencement of criminal prosecution and in pre-trial proceedings.

80. Through the Ministry of the Interior of the Slovak Republic, in particular, the Slovak Republic makes its best effort to ensure the protection of the rights and freedoms of persons and to ensure lawful conduct by the Police Force and Railway Police officers in their line of duty. For this purpose, multiple internal regulatory acts were prepared and approved and amendments were made to those in force, which govern the protection of rights and freedoms of persons. The Ministry of the Interior of the Slovak Republic implements control activities focusing, inter alia, on compliance with generally binding regulations and internal regulatory acts in this area by the Police Force or Railway Police officers.

Reply to recommendation 11, paragraph 15(b), of the concluding observations

The Roma minority

81. The application of the law is overseen by the State School Inspection, which acts as the independent central government body in the field of education. Its comprehensive inspections of

elementary schools for pupils with mental disabilities always involve an inspection of the pupils' personal documentation, special education screening of pupils and its results, as well as the proper classification of pupils into the relevant school types. In the case of doubts as to whether the classification is correct, it requests re-diagnosis and monitors the procedure up to the pupil's potential transfer into another type of school. School inspectors are registering a drain of pupils from special schools (including pupils with mental disabilities) and their individual integration in regular elementary schools.

82. The Ministry of Education, Science, Research and Sport of the Slovak Republic pays undivided attention to the classification of Roma children and pupils, or children and pupils coming from socially disadvantaged environments, in elementary and special elementary schools, drawing the directors' attention to the admittance of pupils and to the observance of the principle of integration through generally biding regulations, which apart from Act No. 245/2008 Coll. on training and education (the Schools Act) and on the amendment of certain acts, as amended, also include further follow-up decrees, such as the Decree of the Ministry of Education of the Slovak Republic No. 322/2008 Coll. on special schools, Decree of the Ministry of Education of the Slovak Republic No. 306/2008 Coll. on kindergartens (§4(4)).

(a) The Pedagogical and Organizational Instructions for the academic year 2010/2011 include the following guidance:

- Part 1.2 - Information and recommendations concerning the educational process in schools and school facilities, Clause 21. Pursuant to §3(d) of Act No. 245/2008 Coll., all schools and school facilities are to implement the prohibition of all forms of discrimination and segregation in particular, eliminate the problem of segregation of Roma children and pupils in schools and school facilities, and establish favourable conditions for their education in mainstream classes;

- Part 2.1 - General instructions, Clause 15. Rigorously integrate Roma children and pupils in classes and departments of schools and school facilities without segregation, and establish favourable conditions for their education in classes attended by the rest of the population;

- Part 2.5.3 - Special schools, special classes, Clause 17. A special elementary school is not intended for pupils coming from a socially disadvantaged environment, whose intellectual capacity is within the normal range, i.e. it is not intended for pupils in the so-called borderline zone nor for other pupils without a mental disability.

- Part 3.3 - Educational counselling and prevention facilities,

- Clause 7. The Pedagogical, Psychological Advisory and Prevention Centre examines the school readiness of children whose delayed development is due to the socially disadvantaged environment they come from. When dealing with pupils coming from a socially disadvantaged environment, it is necessary to rigorously perform diagnostic examinations. We recommend to cooperate with the pedagogue's assistants;

- Clause 8. When assessing the children's school readiness, particular attention should be

paid to children coming from a socially disadvantaged environment, especially children from marginalised settlements;

- Clause 9. In addition to assessing a child's school readiness, the advisory institution shall propose a suitable form of education, also based on consultations with the parent and kindergarten pedagogue;

- Clause 10. Educational counselling and prevention facilities only conduct psychological examinations of children with the consent of the child's legal guardian;

- Clause 11. A diagnostic and re-diagnostic examination may be requested by the parent, school, medical specialist or social custody.

Guidance is also given in respect of diagnostic procedures (testing, examinations) with a view to eliminating errors in the assessment of school readiness or in the determination of a diagnosis:

(b) Methodological Guidance No. 12/2005-R lays down the procedure to be applied by pedagogical and psychological advisory centres when assessing the school readiness of children coming from a socially disadvantaged environment during placement in the first grade of elementary school:

- Art. 3 - Assessment of school readiness, para. 1. Children in respect of whom severe shortcomings in communication in the school's language of instruction were discovered in the course of enrolment in the 1st grade of elementary school need to be examined using individual psychological methodologies, with a view to determining the possibilities of their instruction and of ensuring suitable conditions for their education;

- para. 5. Where standard methodologies are applied to children coming from a socially disadvantaged environment, the results need to be interpreted using an individual approach. Extremely low numerical values serve as a basis for determining the necessary educational procedures; however, they do not serve as the basis for objectively assessing the intellectual level and are not a sufficient criterion for recommendation for the 1st grade of a special elementary school;

- para. 6. If it is discovered that the child's psychosocial development level is reduced or that the child does not have sufficient command of the language of instruction, this gives grounds for the submission of a proposal to the competent central government body in the field of education, which decides, with the consent of child's legal guardian, upon enrolling the child in a zero-grade of elementary school. The identified areas of a child's underdevelopment allow for its classification in specific stimulatory programmes organised by the pedagogical and psychological advisory centre;

- Art. 4, para. 2. If the diagnostic examination of a child coming from a socially disadvantaged environment rules out a child's mental disability, the pedagogical and psychological advisory centre shall not recommend the child for enrolment in a special elementary school;

- para. 3. In the case of instructing a child in a preparatory grade or in the 1st grade of a special elementary school, we recommend re-diagnostics using the "RR screening" methodology (for excluding mental disability in children aged 6 to 10) […] It is advisable to use the methodology after 6 months of school attendance at the earliest.

83. Act No. 245/2008 Coll. defines the term "child or pupil with special educational needs". Within this broad group, children and pupils with disabilities are clearly distinguished from children and pupils coming from a socially disadvantaged environment, as are the methods of their education.

84. In the said Act, children and pupils coming from a socially disadvantaged environment are defined under §2(p) as follows: "a child coming from a socially disadvantaged environment or a pupil coming from a socially disadvantaged environment is a child or a pupil living in an environment which, in view of its social, familial, economic and cultural conditions, does not adequately stimulate the development of mental, volitional and emotional faculties of the child or pupil, does not encourage his/her socialisation and does not offer adequate incentives for the development of his/her personality".

85. This category is not identical with that of children and pupils with disabilities (including mental disabilities).

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[1] §420 of the Penal Code "Torture and other inhuman or cruel treatment: (1) Any person who in connection with the discharge of the official powers of a state authority inflicts physical or mental suffering [on another person] through ill-treatment, torture or other inhuman or cruel treatment shall be liable to a term of imprisonment of two to six years.

(2) A term of imprisonment of three to ten year shall be imposed on the perpetrator who commits the crime referred to in paragraph 1 above: a) together with at least two other persons; b) in a particularly serious manner; c) on a protected person; d) of a special motive; or e) on a person whose personal liberty has been restricted under the law.

(3) A term of imprisonment of seven to 12 years shall be imposed on the perpetrator who commits the crime referred to in paragraph 1 above: a) and causes serious bodily harm or death; b) with the aim of marring or preventing another person from exercising his/her fundamental right and freedoms; or c) as a member of a dangerous group. (4) A term of imprisonment of 12 to 20 years shall be imposed on the perpetrator who commits the crime referred to in paragraph 1 above: a) and causes serious bodily harm to or death of several persons; or b) under a crisis situation."

[2] "The Slovak Republic hereby declares pursuant to Article 18(1) of the Convention that it will apply the Convention to persons who are non-European Union nationals. The Slovak Republic hereby designates, pursuant to Article 12 of the Convention, the Ministry of Justice of the Slovak Republic to act as a central authority to receive and take actions on requests for

assistance under the Convention.”