Permanent Mission of the Slovak Republic
Geneva

VN.15.035/2012

The Permanent Mission of the Slovak Republic to the Office of the United Nations and other International Organisations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights, the Secretariat of the Human Rights Committee, and has the honour to attach the commentary of the Slovak Republic to recommendations No. 7, 8 and 13 of the Committee in connection to the presentation of the 3rd periodic report of the Slovak Republic under ICCPR (CCPR/C/SVK/CO/3).

The Permanent Mission of the Slovak Republic avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights, the Secretariat of the Human Rights Committee, the assurances of its highest consideration.

Geneva, 28 March 2012

Office of the High Commissioner for Human Rights
Human Rights Committee Secretariat
Palais Wilson
Geneva

Annex: 8 pages
Commentary of the Slovak Republic to Recommendations No 7, 8 and 13 of the Committee for Human Rights, in connection to the presentation of the 3rd Periodic Report of the Slovak Republic related to the International Covenant on Civil and Political Rights (CCPR/C/SVK/CO/3)

7. While the Committee appreciates the State party’s efforts to develop a bill that seeks to confer power on the Constitutional Court to rule on the compatibility of domestic legislation with international treaties, the Committee notes that this bill has not been enacted into law (art. 2) (CCPR/C/SVK/CO/3 para 7).

The solution of introducing the ‘individual constitutionality control’ when the complaining party, in line with Article 127 of the Constitution of the SR, could instigate proceedings for the harmony of legal regulations at the level of regularization, is not legislatively acceptable. This issue may only be dealt with by a direct amendment to the Constitution of the SR.

On 27 August 2009, the Ministry of Justice of the SR presented a draft of an amendment of the Act of the National Council of the Slovak Republic No 38/1993 Coll. on the Organizational Structure of the Constitutional Court of the Slovak Republic, and on the Proceedings brought to the Court and on the Position of Its Judges as amended for inter-departmental commentary process. The main point of this draft was the legal introduction of individual constitutionality control. In view of the presented fundamental comments, the Ministry of Justice of the SR has abandoned the intention to continue in the legislation procedure, as this intention is not feasible unless the Constitution of the SR changes.

For that reason, the Slovak Republic cannot approve this Recommendation after an additional analysis on the basis of standpoints of the involved state authorities of the SR.

8. While welcoming the State party’s efforts to prosecute law enforcement officers who perpetrate racist attacks, particularly against the Roma, the Committee is aware of the continued reports of racist attacks and the lack of adequate compensation for the victims (arts. 2 and 27) (CCPR/C/SVK/CO/3 para 8).

Ministry of Justice of the SR

The current Act on the Compensation of Victims of Crimes of Violence (No 215/2006 Coll. as amended by the Act No 79/2008 Coll.) enables financial compensation of victims of crimes of violence without any discrimination, including racial discrimination, discrimination based on skin colour, or discrimination for other reasons. In this regard, the current status of the Slovak legislation corresponds with the international obligations of the SR resulting from the relevant UNO Convention.

Ministry of Interior of the SR

1. The tasks that have already been performed within the competence of the Ministry of Interior of the Slovak Republic and which correspond with the requirement stated in the respective Recommendation.
In its Resolution No 979 of 10 October 2001 related to a draft reply of the Government of the Slovak Republic to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from the second periodic visit to Slovakia made in the period of 9 – 18 October 2000, the Government of the Slovak Republic assigned the D.2 task to the Minister of Interior of the Slovak Republic, - to pay constant attention to the activity of the Department of Control and Inspection Service of the Ministry of Interior of the Slovak Republic when examining presentations of detained, arrested and accused persons related to injuries which have been caused, according to their allegations, by members of the Police Force, while he shall inform the Government of the Slovak Republic annually. In relation to this task, the Department of Control and Inspection Service of the Ministry of Interior of the Slovak Republic, on the basis of an internal control act, quarterly processes information about the examination of presentations of detained, arrested and accused persons related to injuries which have been caused, according to their allegations, by members of the Police Force, for an advisory body of the Director General of the Department of Control and Inspection Service of the Ministry of Interior of the Slovak Republic. The information submitted for discussion of a meeting of management of the Ministry of Interior of the Slovak Republic, and then for the discussion of the Government of the Slovak Republic, is also processed annually.


The Department of Control of the Presidium of the Police Force participated in the processing of the above-stated Order of the Minister of Interior of the Slovak Republic, and elaborated the Order of the President of the Police Force No 50/2010 on Performing Tasks to Ensure Recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Their aim was to enhance the effort of the Police Force in the area of observing the human rights of persons who are limited in their personal freedom when members of the Police Force take actions. The visit of the stated European Committee took place in the Slovak Republic in the period of 24 March – 2 April 2009. Planned inspections are made annually in the given area by the Department of Control of the Presidium of the Police Force, while on the basis of discovered shortcomings, the respective Heads of controlled subjects are obliged to take steps to prevent the repetition of the discovered findings and reasons for their occurrence.

With reference to the Resolution of the Government of the Slovak Republic No 343/2010 related to the Report about the assessment of the Second Periodic Report of the SR in line with the Convention against Torture and Inhuman or Degrading Treatment or Punishment before the Committee Against Torture, and a proposal of relevant subjects for the execution of Recommendations included in the Final Statement of the Committee Against
Torture, the Department of Control and Inspection Service of the Ministry of Interior of the Slovak Republic is a co-bearer of tasks related to the provision of the accelerated and objective investigation of all accusations of torture or cruel, inhuman or degrading treatment.

On the basis of the Order of the Minister of Interior of the Slovak Republic No 14/2006 on Updating Measures from the Strategy of the Government of the Slovak Republic to Deal with Problems of the Roma National Minority, and of a set of measures for their execution, a set of measures corresponding to the content of the respective Recommendation is being currently executed as for the education of members of the Police Force.

The Ministry of Interior of the Slovak Republic provides education in police education courses of members of basic units of the Police Force in the area of observing human rights, checking the manifestations of racism and racially motivated criminal activity, as well as manifestations of other forms of discrimination.

The Ministry of Interior of the Slovak Republic also provides, within studies of members of the Police Force, educational topics involved in teaching materials, which are focused on observing human rights, checking the manifestations of racism and racially-motivated criminal activity, as well as manifestations of other forms of discrimination. The issue of observing human rights is implemented in the content of single subjects taught at the Police Academy in Bratislava. The protection of persons and property in the study program of security-legal protection of persons and property is part of the content of subjects taught in specialized police studies. The stated issue is included e.g. in the content of the subject of criminology, particularly in the topics of victimology, racially-motivated criminal activity and criminality committed by ethnic groups, in which students of both daily and external studies participate. Moreover, this issue is implemented in the content of other subjects, such as ethics, human rights and the like, in which students of both daily and external studies also participate.

2. Relevant tasks and activities, which have been or will be executed in the competence of the Ministry of Interior of the Slovak Republic within 2011 and 2012.

A draft of Conception for the fight against extremism for 2011 – 2014 has been elaborated within the competence of the Ministry of Interior of the Slovak Republic, which was approved by the Government of the Slovak Republic by Decree No 379 of 8 June 2011. When elaborating the material, recommendations of international organizations and international conventions related to the issue of the violation of fundamental human rights and freedoms were also taken into consideration. The Conception is based on the determined general target to eliminate the reasons, manifestations and consequences of extremism and racially motivated criminal activity.

In order to ensure the fulfilment of tasks resulting from the draft of the Conception of the fight against extremism for 2011 – 2014, which are within the competence of the Ministry of Interior of the Slovak Republic, the Order of the Minister of Interior of the Slovak Republic No 157/2011 on Elaboration of Tasks in the Competence of the Ministry of Interior of the Slovak Republic was issued.

The Ministry of Interior of the Slovak Republic is an active member of the Committee for the Prevention and Elimination of Racism, Xenophobia, Anti-Semitism and Other Forms of Intolerance established at the Government Office of the Slovak Republic.
In 2011 the Ministry of Interior of the Slovak Republic elaborated, in cooperation with the Attorney Generalship of the Slovak Republic for the needs of members of the Police Force, a methodology related to the issue of extremism where a process is stated regulating how to proceed in the issues of extremism and racially-motivated criminal activity. The methodology also includes an informative part where extremist and racially motivated criminal activity is stated as a violation of fundamental human rights and freedoms.

In accordance with the Order of the Minister of Interior of the Slovak Republic No 14/2006 on Updating Measures from the Strategy of the Government of the Slovak Republic to Deal with Problems of the Roma National Minority, and with a set of measures for their execution, the participation of members of the Police Force and employees of the Ministry of Interior in seminars and conferences dealing with the issue of the Roma national minority and racially motivated criminal activity was ensured.

On 29 June 2011, the staff of the Department of Extremism and Spectator Violence of the Criminal Police Office of the Presidium of the Police Force participated in an expert seminar organized by the Judicial Academy for judges and prosecutors entrusted by proceedings in criminal issues related to extremism, for the purpose of using efficient tools of judicial power for extremism prevention and restriction. The Department of Extremism and Spectator Violence of the Criminal Police Office of the Presidium of the Police Force also organized an educational event for prosecutors of the Attorney Generalship of the Slovak Republic, for the purpose of using efficient tools of judicial power for extremism prevention and restriction.

In the period of 29 – 30 September 2011 members of the Regional Directorate of the Police Force in Prešov participated in an international conference related to the issue of criminal acts committed out of hatred, an overview and development of the European rightist extreme symbology from 1919 until now, heraldry and symbology in the Slovak Republic, strategies of legal action of extremists in Slovakia, Internet intolerance, extremism in the media, literature used by current neo-Nazism, cases of extremism and spectator violence in the Slovak Republic, Caucasian radicalism and terrorism, and the current status and perspectives of leftist extremists in Slovakia.

Within the competence of the Regional Directorate of the Police Force in Košice, a specialist of the District Directorate of the Police Force in Trebišov participated in an expert seminar held in May in Bratislava, organized by the Central-European Police Academy related to the issue of the Roma national minority, with his contribution entitled 'Police Specialist for Roma Communities and his Work for the Community'.

In February 2011, a work meeting was held in the city part of Košice – Luník IX with representatives of the District Directorate of the Police Force in Košice and representatives of the city part - the mayor and the principal, MPs of the stated city part, and the aid coordinator of the European Community Mr. Eric van der Linden. The aim of the meeting was to find a solution on how to improve the position of the Roma ethnic group in the residential area of Luník IX in Košice.

In the period of 7 September – 25 November 2011, the Department of Control of the Presidium of Police Force checked the fulfilment of Recommendations resulting from the evaluation of Recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment at the Regional Directorate of the Police Force in Trenčín, as well as from the final Recommendation of the Committee Against
Torture, whose content was, inter alia, to check the action taken by members of the Police Force restricting personal freedom of persons, as well as to check the knowledge of members of the Police Force as for the provisions of articles 8, 63, 64, 68 and 68a of the Act of the National Council of the Slovak Republic No 171/1993 Coll. on the Police Force as amended, the Order of the Minister of Interior of the Slovak Republic No 3/2002 on the Code of Ethics of Police Officers as amended, and the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The check helped to find shortcomings at the units in the competence of the Regional Directorate of the Police Force in Trenčín, which the Head of the checked subject has removed and taken steps to prevent their repetition.

In view of the Annex to the Order of the President of the Police Force No 92/2011 on the Inspection Activity of the Presidium of the Police Force for 2012, in 2012 the Department of Control of the Presidium of the Police Force is going to carry out the above-mentioned planned check of the fulfilment of tasks resulting from the evaluation of Recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as well as from the final Recommendation of the Committee Against Torture.

On 19 January 2012, the Department of Control and Inspection Service of the Ministry of Interior of the Slovak Republic and the Prison Ward and Justice Ward Corps concluded a new executive agreement about mutual cooperation related to the Contract between the Ministry of Interior of the Slovak Republic and the Ministry of Justice of the Slovak Republic about Mutual Cooperation, signed in December 2009. The aim of the executive agreement is mainly cooperation and mutual help in the immediate provision of information and knowledge about the illegal action of members of the Police Force on the one hand, and members of the Prison Ward and Justice Ward Corps on the other; it is one of the measures related to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

The 2012 annual plan of the Department of Control and Inspection Service of the Ministry of Interior of the Slovak Republic includes the continual task, stating ‘if the inspection activity and examination of complaints helped to find shortcomings in the acting of members of the Police Force when taking action towards persons, the respective Head of the inspected subject shall be bound to take steps, within 5 days from the inspection has finished or from the discussion of the minutes of the examination of the complaints, to remove the discovered shortcomings and reasons for their occurrence.’

13. While welcoming the investigation into the forced sterilisation of Roma women and the adoption of Act No. 576/2004 Coll. on healthcare and services, which introduces the notion of informed consent, the Committee is concerned at the narrow focus of the investigation and the lack of information on concrete measures to eliminate forced sterilisation, which, allegedly, continues to take place (arts. 7 and 26) (CCPR/C/SVK/CO/3 para 13).

Ministry of Health of the SR

The Recommendation is being fulfilled in line with the following valid legal standards:
1) Act No 576/2004 Coll. on Healthcare, Healthcare-Related Services and amending and supplementing of certain laws, as amended (hereinafter referred to as 'Act No 576/2004 Coll.');


3) the Program of Health Support of Disadvantaged Communities in Slovakia for 2007 – 2015;

4) the Action Plan to Prevent all Forms of Discrimination, Racism and Xenophobia, Anti-Semitism and other Manifestations of Intolerance for the Period of 2009 – 2011;


In line with Article 11 paras. 1 and 2 of Act No 576/2004 Coll., everybody has the right to be provided with health care, while this right to the provision of health care is guaranteed equally for everybody in line with the principle of equal treatment in health care, laid down by a special regulation. In accordance with the Principle of Equal Treatment, discrimination is prohibited on grounds of sex, religion or faith, marital status and family status, colour of skin, language, political views or other views, trade union activity, nationality or social origin, disability, age, property, descent or other status.

In line with para. 2 of Annex 4 (Code of Ethics of Health-Care Staff) to Act No 578/2004 Coll., general obligations of health-care staff also include the obligation to maintain life, protect, support and recover health, prevent illnesses, mitigate suffering, regardless of a patient’s nationality, race, religion, sexual orientation, political adherence, social position, moral or mental level, and prestige.

In view of the above-stated, let us inform that medical institutions, their statutory representatives, and also medical staff or providers of health care are familiar with the above-mentioned legal provisions. If such are violated, the affected persons have the right to contact the Healthcare Surveillance Authority and ask it to examine the given fact.

In order to ensure the consistent application of Act No 576/2004 Coll., mainly provisions related to instruction and informed consent prior to the sterilisation of Roma women, in 2011 the Ministry of Health of the SR distributed a template of the informed consent in the Roma language to all medical institutions in the territory of the SR, which are to be fully used for this purpose.

In 2012 the Ministry of Health of the SR is planning to inform, in a wide-scale way through a written instruction of the Director General of the Health Department of the Ministry of Health of the SR, to all medical institutions in the territory of the SR or their statutory representatives, that they have to provide, within their competence, trainings for their medical staff, mainly those from the area of gynaecology and obstetrics, as well as for medical staff of first intervention, focused on the careful application of Article 6 of Act No 576/2004 Coll., and also focused on raising awareness about the unfavourable effects of illegal sterilisation or about the criminal-legal liability of medical staff for sterilisation without the prior instruction and informed consent of the given person.

**Ministry of Labour, Social Affairs and Family of the SR**
In its agenda, the Ministry of Labour, Social Affairs and Family of the SR (MPSVR SR) fosters the access of women to sexual and reproduction rights, in the form of conceptual intentions reflected in governmental materials and attitudes to relevant supporting documents, with a special focus on women from socially disadvantaged communities, of which Roma women are mainly a part.

The MPSVR SR also dealt with the issue of reproductive health, which was a part of the measures of the proposed factual intention of the Act on Socially Excluded Communities (SVS). The aim of the proposed measure, Reproductive Health Support, was to enhance the accessibility of reproductive health-related services with the focus on prevention, pre-natal checks, care for the mother and child, as well as services of family planning, including ‘natural methods’ in the form of the dissemination of support information, education projects, and subsidies for the services and means of reproductive health. In their application, emphasis should be laid on the human and legal dimension, the informed and free will of an individual, while respecting the right to privacy, equality, information and application of the principle of informed consent, as well as on respecting the personal or religious beliefs of aid-receivers.

This issue was also dealt with at the meeting of the Committee for Gender Equality on 23 September 2011, discussing documents related to the elimination of violence to women and the creation of a new SR strategy related to human rights. The Committee also adopted the Attitude (stated below) where it supported the aim of the measure of the factual intention related to socially excluded communities in order to improve access to reproductive health services in relation to the Roma population. The Attitude of the Committee has become an official supporting document to be discussed by the Council of the Government of the SR for Human Rights, National Minorities and Gender Equality. The Committee has established working groups for strategies, economy and labour market, violence to women, health, education, science and research, as well as parenthood and private life.

The scope for prevention and expert discussion has been established by the Committee for Gender Equality, and it is necessary to prevent any violation of the individual rights of women without a racial context, and to adhere to the International Covenant on Civil and Political Rights of the UNO as well as other international conventions in this area.

*Attitude of the Committee for Gender Equality in relation to the measure to improve the access to reproductive health services in SVS (23 September 2011)*

The Committee for Gender Equality associates itself with the target of the measure for SVS which, in connection to other proposed measures in the area of prevention, is raising awareness and education towards health (health education in the environment of socially excluded communities), to improve the use and availability of reproductive health services with the focus on prevention, pre-natal checks, care for the mother and the child, as well as services of family planning, including ‘natural methods’ in the form of the dissemination of support information, education projects, and subsidies for the services and means of reproductive health, while maintaining the principle of individual responsibility.

In application of the proposed measure, emphasis will be laid on the human and legal dimension, the informed and free will of an individual while respecting the right to privacy,
equality, information and the application of the principle of informed consent, as well as on respecting the personal or religious beliefs of aid-receivers.