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**Replies from the Government of Slovakia to the list of issues
(CCPR/C/SVK/Q/3) to be taken up in connection with the
consideration of the third periodic report of Slovakia
(CCPR/C/SVK/3)***

[17 December 2010]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Constitutional and legal framework within which the Covenant is implemented (art. 2)

Reply to the issues raised in paragraph 1 of the list of issues (CCPR/C/SVK/Q/3)

1. No provisions of the Covenant have been invoked before the Slovak courts during the reporting period.

Reply to the issues raised in paragraph 2 of the list of issues

2. The draft amendment of the Constitution of the Slovak Republic (hereinafter referred to as “the Constitution”) relating to the power of the Constitutional Court of the Slovak Republic (hereinafter referred to as “the Constitutional Court”) to rule of its own motion on the compatibility of generally binding legal acts with international treaties, including international instruments on human rights and fundamental freedoms ratified by the Slovak Republic and promulgated in a manner provided for by law, had not been submitted for legislative procedure and for subsequent deliberations by the Government of the Slovak Republic (hereinafter referred to as “the Government”) because of the lack of time for a broader expert and public debate and because it would be problematic to obtain the consensus of members of the National Council of the Slovak Republic (hereinafter referred to as “the National Council”) on this issue in the period preceding parliamentary elections of 12 June 2010, since the adoption of the amendment would require approval by a two-thirds majority of all members of the National Council (90 out of a total of 150 members).

3. For the above reason, the constitutional amendment will be re-examined and subsequently submitted for deliberations by the Government and by the National Council during its 5th term.

Reply to the issues raised in paragraph 3 of the list of issues

4. To fully bring the Slovak National Centre for Human Rights in line with the Paris Principles, further steps will be necessary to strengthen its independence and plurality. These changes will be introduced as part of the amendment to the act on the establishment of the Slovak National Centre for Human Rights, which is foreseen for the current term (2011-2014) in the Government’s Manifesto.

Principle of non-discrimination and rights of minorities (arts. 2, 26, 27)

Reply to the issues raised in paragraph 4 of the list of issues

5. The key systemic instrument of the Government designed to prevent and reduce negative phenomena in society such as racism, xenophobia, intolerance and discrimination is the “Action Plan for the Prevention of All Forms of Discrimination, Racism, Xenophobia and Other Expressions of Intolerance” (hereinafter referred to as “the Action Plan”), prepared periodically since 2000. Besides tackling the most salient social problems, it pursues long-term objectives in an effort to combat the above-mentioned negative phenomena in society. A major component of the Action Plan is represented by the activities of public authorities and non-governmental organisations, which make a significant contribution to the dissemination of the values of tolerance, multiculturalism and non-discrimination in society.

6. The priorities of the Action Plan in the period 2009-2011 are:

1. Implementing the commitments arising from international conventions and treaties in the area of human rights and non-discrimination, monitoring the fulfilment of recommendations and adopted measures;

2. Ensuring effective protection against discrimination, xenophobia, anti-Semitism and other expressions of intolerance, including alternative forms of protection mechanisms;

3. Developing instruments to secure the collection and analysis of data on age, gender, belonging to a national minority or ethnic group, sexual orientation or other characteristics while respecting the principles of personal data protection laid down in the legislation in force;

4. Ensuring effective integration in society of persons belonging to a national minority or ethnic group or persons coming from socially disadvantaged environments, and of aliens.

5. Educational activities in the area of human rights and multicultural education for children and youth;

6. Providing systematic training to members of professional groups who, through performing their occupational duties, can have an impact on the prevention of all forms of discrimination, xenophobia, anti-Semitism and other expressions of intolerance;

7. Supporting the activities aimed at remembering and commemorating the holocaust;

8. Supporting social, scientific, cultural and sports events dedicated to issues connected with human rights and prevention of all forms of discrimination, racism, xenophobia, anti-Semitism and other expressions of intolerance;

9. Enhancing public awareness of and information on issues related to non-discrimination and equal treatment principle with the aim of eliminating prejudice and stereotypes and promoting a multicultural society.

7. Another instrument is represented by the activities carried out in the area of non-discrimination and diversity within the European Commission's PROGRESS programme framework. The "Equal Opportunities Pay" project, developed by the Slovak National Centre for Human Rights and partners in the area of non-discrimination and diversity of the PROGRESS programme, was recommended for implementation and approved in 2009 with the aim of improving the implementation of national anti-discrimination legislation, formulating national non-discrimination policy, and improving public awareness.

Reply to the issues raised in paragraph 5 of the list of issues

8. The issue of eliminating racial violence and addressing its root causes is, first and foremost, a societal issue. The Police Force takes direct part in addressing this issue through its prevention activities. A significant preventive and educational impact on elimination of root causes of racial violence can be achieved by means of rapid identification and adequate punishment of perpetrators of these crimes. To this end, spokespersons for the sector of the Ministry of Interior of the Slovak Republic (hereinafter referred to as "the Ministry of Interior") regularly inform the public through the mass media about cases of racially motivated crimes.

9. The Presidium of the Police Force actively monitors crimes involving elements of racial violence. Relevant departments of district and regional directorates of the Police

Force submit ongoing reports to the Police Force Presidium about these cases and their investigation.

10. Incidents of racial violence are investigated by authorised officers of the Police Force and by investigators of the Police Force working in close cooperation with the prosecution service which oversees the lawfulness of the procedure at the stage of pre-trial proceedings before initiating the prosecution.

11. With the aim of enhancing effectiveness of the fight against extremism in the Slovak Republic, the sector of the Interior Ministry adopted several measures including, *inter alia*, specialisation of members of the Police Force in the fight against this type of crime.

12. Regulation No. 64/2008 on methods of combating expressions of extremism and on methods of curbing spectator violence, issued by the Minister of the Interior of the Slovak Republic (hereinafter referred to as “the Minister of Interior”) entered into effect on 1 September 2008. The Regulation sets out actions to be taken by the relevant departments of the Ministry of Interior and of the Police Force in carrying out their tasks aimed at the protection of life, health, safety and property in connection with the prevention, detection, clarification, documentation and investigation of crime committed by extremists, extremist groups, and in connection with domestic sports events and other social events involving a higher degree of risk.

13. The Regulation pursues the aim of improving the quality of investigation of these crimes and instructs the directors of judicial and criminal police offices within regional and district directorates of the Police Force to assign at least one police officer (a Police Force investigator and an authorised Police Force officer) to the investigation of criminal offences committed in connection with the crime of extremism.

14. The objective of this specialisation is to ensure regular training of designated Police Force investigators and authorised Police Force officers on the issue of extremism and to assign them to the investigation of these criminal cases in order to enable them to acquire both theoretical and practical knowledge in the field.

15. Police officers regularly attend specialised seminars and conferences focused on the issue of racially motivated and extremist crime. The aim of these training activities is to provide information about current trends in this area, legislative proposals, and practical findings obtained in the investigation of individual cases.

16. Another activity that contributed to the training of Police Force investigators was the organisation in 2008 of the so-called “investigation days” focused on criminal offences motivated by national, ethnic or racial hatred or hatred based on skin colour, and on criminal offences with elements of extremism. The aim of this training activity was to exchange practical experience of investigating these types of crime.

17. Systematic training on the prevention of all forms of discrimination, racism, xenophobia and anti-Semitism provided to officers of the border and alien police service – the Office of Border and Alien Police of the Ministry of Interior – within their training programmes and specialised training constitutes an important component of the strengthening of the prevention system in this field.

18. The training of judges and prosecutors is carried out by the Judicial Academy inaugurated on 1 September 2004. The Judicial Academy is an independent national educational institution that secures, organises and conducts the training of judges, prosecutors and court officials. The Academy provides training through its house staff and teachers’ body in accordance with its approved annual academic plan. Annual study plans of the Judicial Academy also reflect the tasks defined in Action Plans for the forthcoming periods. From the very beginning, training events offered under the study programme of the

Academy have incorporated the issue of the protection of human rights and fundamental freedoms, and the Convention in general.

19. Special training on human rights with a focus on the prevention of all forms of discrimination, racism, xenophobia and other forms of intolerance is also provided to members of the Corps of Prison and Court Guard (hereinafter referred to as “the CPCG”) in the form of specialised courses offered to CPCG officers at the CPCG Institute of Education.

Reply to the issues raised in paragraph 6 of the list of issues

20. (a) One of the most important instruments that had been used by the Slovak Republic in the preceding period, including for the purpose of temporary positive measures, was assistance from the structural funds of the European Union (EU). By means of this assistance, which covered 100 % of funds from public sources, subsidies were provided in 2008 to build 409 housing units and procure technical infrastructure for 289 housing units; this is considered to be an important instrument for exercising the right to adequate and socially just housing which is as a basic prerequisite for harmonious development and exercise of personal and political rights, and of economic and social rights. In 2009, subsidies were provided for the construction of 50 housing units, including in urban agglomerations, and for the procurement of technical infrastructure for the same number of units; in 2010, subsidies were provided for building 181 flats and for the procurement of technical infrastructure for a total of 162 flats.

21. A special instrument for the implementation of these measures following the adoption of the National Strategic Reference Framework for the years 2007-2013 is the horizontal priority of Marginalized Roma Communities aiming at increasing employment rates and educational standard of persons belonging to Roma communities and improving their living conditions.

22. The support for marginalized Roma communities focuses on four priority areas: education, employment, health and housing, and on three interlinked problem areas: poverty, discrimination and gender equality. The instruments that have been used to implement this horizontal priority are: demand-oriented projects and a comprehensive approach. An allocation of EUR 175,437,163 was made for the horizontal priority of Marginalized Roma Communities, using the comprehensive approach, from the following operational programmes: Environment, Competitiveness and Economic Growth; Education, Health, Employment and Social Inclusion; and from Regional Operational Programmes.

23. (b) In implementing section 8(a) of Act No. 365/2004 Coll. on equal treatment in certain areas and on protection against discrimination (hereinafter referred to as “the anti-discrimination law”), the Slovak Republic must interpret and apply legal frameworks governing positive action in line with interpretation rules spelled out in the finding of the Constitutional Court of 18 October 2005 Pl. ÚS 8/04 (No. 5/2005) concerning incompatibility of section 8, para. 8, of Act No. 365/2004 Coll. on equal treatment in certain areas and on protection against discrimination and on amending and supplementing certain other laws (“the anti-discrimination law”). In the above finding, which resulted in the amendment of the anti-discrimination law, the Constitutional Court stated *inter alia* that the objective of these techniques (i.e. of temporary positive measures) is to ensure fairness in access to opportunities, and that this objective is linked to that of material equality which requires that unequal situations should not be addressed in the same manner as standard situations. In the opinion of the Constitutional Court, the only objective of such measures can be the elimination of the consequences of previous discrimination and of unequal opportunities in order to reach an equal result.

24. Because of the resulting amendment to the anti-discrimination law, which prohibits positive discrimination and lays down precise rules for temporary positive measures, in the process of adopting the above measures, the Slovak Republic must take due regard of the legal opinion of the Constitutional Court expressed in its finding.

25. (c) The Government plenipotentiary for Roma communities – an advisory body to the Government – carries out the tasks focusing on Roma communities and implements systemic measures to improve their situation and integration in society. The plenipotentiary's office supports projects aimed at improving awareness about the Roma culture, history, language and standardisation of the Roma language, and projects aimed at fostering the interest of the Roma community in the presentation of its own traditions, customs and cultural values. The aim of the plenipotentiary's office is to focus on developing strong links with the mass media so as to achieve objective information of the public about the Roma community living in the Slovak Republic.

26. (d) As a Member State of the Decade of Inclusion of the Roma Population 2005–2015 (hereinafter referred to as “the Decade”), the Slovak Republic held the presidency of the Decade between 1 July 2009 and 30 June 2010.

27. The assumption of the presidency was preceded by the creation of a working group for preparing the taking over of the presidency, its smooth course and conclusion; it was made up of the representatives of the Office of the Government of the Slovak Republic, the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities, relevant ministries of the Slovak Republic, and civil society including the non-governmental sector. The working group chaired by the Deputy Prime Minister of the Slovak Republic for Knowledge-based Society, European Affairs, Human Rights and Minorities, who is also national coordinator of the Decade for the Slovak Republic, identified the following priorities for the Slovak Republic:

- Integrated education and multicultural education
- Identity of the Roma
- The fifth year of the Decade – review of national action plans

28. The objective of the Slovak presidency was to strengthen all priority areas of the Decade – education, employment, health and housing, together with crosscutting themes, and continuity with the tasks and objectives of the preceding presidencies.

Revision of the National Action Plans as a priority of the Slovak presidency

29. Representatives of the Member States of the Decade of Inclusion of the Roma Population 2005-2015, relevant sectors of the Government of the Slovak Republic, the non-governmental sector and civil society in Bratislava discussed the revision of the national action plans on 16 March 2010 in Bratislava. The call to revise the National Action Plans was one of the key tasks of Slovakia's one-year presidency of the Decade. In carrying out the revision, the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities has been drawing on expertise gained in the UN Development Programme.

30. The Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities currently plans to proceed to the conclusion of work on the revision of the National Action Plan, incorporating the measures reflecting the Government priorities laid down in the Government Manifesto for 2010-2014. The document is to be finalised at the beginning of 2011.

7. Reply to the issues raised in paragraph 7 of the list of issues

31. The anti-discrimination law that entered into effect in 2004 lays down the obligation to respect the principle of equal treatment and, consequently, prohibits also discrimination based on disability. The act governs legal relationships in the area of employment and similar legal relationships, social security, healthcare, provision of goods and services, and education.

32. Section 6 of the act on social services provides that natural persons are entitled, under conditions laid down by the act, to choose the social service and forms of its provision, as well as the provider of the social service. Natural persons have the right to social services which, given their scope, forms and ways of provision, enable them to exercise their fundamental human rights and freedoms, preserve their dignity, activate their self-reliance, prevent their social exclusion and promote their inclusion in society, the right to access to information in an intelligible form concerning the type, place, objectives and modalities of the provision of social services, payment for social services, and target groups to which they are provided.

33. The objective of improving access to public areas for persons with disabilities by means of the removal of barriers is pursued mainly through individual provisions of the building law.

34. Under its competence to promote the development of social services, the Ministry of Labour, Social Affairs and Family of the Slovak Republic (hereinafter referred to as “the Ministry of Labour, Social Affairs and Family”) grants subsidies also for structural adaptations aimed at removing architectural barriers in social service establishments (creation of barrier-free entrances, installation of lifts and platform lifts or their replacement if they are found to be defective, removal of architectural barriers in bathrooms and toilets, replacement of floor covering with non-slip flooring, structural adaptations of staircases, adaptations of outdoor areas, construction of inclined ramps, adaptations of lighting).

35. The entry into effect of Act 365/2004 Coll. amending and supplementing Act No. 29/1984 Coll. on the system of primary and secondary schools (the school act):

(a) guaranteed the principle of equal treatment in education;

(b) provided in more specific terms for school integration, including individual integration of pupils with special educational needs in school classes, except for special school classes. This implies integration in special classes where pupils with special educational needs receive education in separate classes in primary or secondary schools. Individual integration means that pupils with special educational needs are placed in classes and study groups together with other pupils of the school and receive education in accordance with individualised educational programmes, while the curricula and educational procedures are adapted to their needs.

36. Besides the current version of the school act, the prohibition of discrimination of pupils with disabilities in education and instruction provided in the system of primary and secondary schools is guaranteed in the Slovak Republic also by the wording of Act No. 365/2004 Coll. on equal treatment in certain areas and on the protection against discrimination, amending and supplementing certain other acts (the anti-discrimination law) as amended, and the wording of the Convention on the Rights of Persons with Disabilities whose signatories include the Slovak Republic.

<i>Number of pupils of special schools, by year</i>	<i>Special kindergartens and primary schools</i>	<i>Special secondary schools</i>	<i>Total</i>
2005	27,579	5,456	33,035
2006	28,280	5,470	33,750
2007	31,030	5,438	36,468
2008	31,421	5,889	37,310
2009	31,832	5,946	37,778

<i>Number of children and pupils with special educational needs individually integrated into standard schools</i>	<i>Kindergartens</i>	<i>Primary schools</i>	<i>Secondary schools</i>	<i>Total</i>
2005	892	11,722	1,116	13,730
2006	642	13,828	2,042	16,512
2007	592	15,273	2,830	18,695
2008	498	15,745	3,589	19,832
2009	502	17,241	4,308	22,051

Reply to the issues raised in paragraph 8 of the list of issues

37. The 2008 amendment to the anti-discrimination law lays down the obligation to apply the equal treatment principle and, consequently, it prohibits discrimination also on the ground of sexual orientation. The act applies to legal relationships in the area of employment and other legal relationships, social security, healthcare, provision of goods and services, and education.

Reply to the issues raised in paragraph 9 of the list of issues

38. Pursuant to Section 28, para. 2, of Act No. 480/2002 Coll. on asylum and on amending and supplementing certain other laws (hereinafter referred to as “the asylum act”), the Ministry of Interior places the asylum seeker after he/she has been granted asylum in an integration centre (i.e. an establishment of the Ministry of Interior serving for temporary accommodation of asylum seekers) and, after the person granted asylum has completed his/her stay in the integration centre and a course on the basics of the Slovak language, he/she will be made a one-off offer of accommodation. The alien granted subsidiary protection may, during the provision of such protection, be accommodated in the facility of the Ministry of Interior for housing aliens granted subsidiary protection, where he/she is provided accommodation and meals or a food allowance, basic sanitary necessities and pocket money; if the alien has an employment contract or receives other income, which represents at least 60 % of the subsistence minimum for one adult person under separate legislation, he/she is not entitled to any pocket money and is obliged to reimburse the Ministry of Interior the costs of his/her stay in the facility, as appropriate. The facility of the Ministry of Interior for housing aliens granted subsidiary protection had been in operation until 2009. In 2010, accommodation and other services for this group of aliens are provided

by non-governmental organisations through projects financed from the European Refugee Fund.

The concept of integration of aliens in the Slovak Republic

39. This document of the Ministry of Labour, Social Affairs and Family sets out legislative, organisational, conceptual and practical measures and defines key objectives and instruments of integration policy of the Slovak Republic. It outlines the basic framework for cooperation and coordination of main stakeholders in this field. It was prepared with the participation of several State administration entities, self-governing bodies, the academic community, the representatives of international organisations, the non-governmental sector and the representatives of communities of foreign nationals living in Slovakia. Proposed legislative and concrete practical measures in the field of integration define the tasks for the period of the next three to five years. The implementation of these measures will be evaluated on an ongoing basis by means of evaluation plans. Individual integration measures will be reviewed and updated at one- to two-year intervals in the light of the current needs of the labour market or of the concrete number of foreign nationals living in the Slovak Republic.

The MEKOMIC Working Group

40. MEKOMIC, the intersectoral expert commission on labour migration and integration of aliens, consists of 5 work subgroups that meet in order to formulate and improve proposals of measures arising from the Concept of Integration of Aliens in the Slovak Republic in connection with the legislation governing the stay of aliens, their employment, access to healthcare and social security, housing and education. Besides the representatives of public authorities, the MEKOMIC group also includes the representatives of intergovernmental and non-governmental organisations, self-governing bodies, the association of towns and villages, the academic community, and the representatives of major communities of aliens living in Slovakia.

Equality between men and women, violence against women, and right to political participation (arts. 3, 7, 25)

Reply to the issues raised in paragraph 10 of the list of issues

National Action Plan for Gender Equality for 2010-2013

41. Through its Resolution No. 316/2010 (12 May 2010) the Government adopted the National Action Plan for Gender Equality for 2010-2013. As for its substance, the National Action Plan for Gender Equality for 2010-2013 draws on the strategy and evaluation of the following documents adopted by the Government to date: the National Action Plan for Women and the Concept of Equal Opportunities of Men and Women. Actions proposed under the plan emphasise the implementation of international documents of the UN, the EU and the Council of Europe. The background document is the Concluding Observations of the Committee on the Elimination of Discrimination against Women based on the consideration of the second, third and fourth periodic report of the Slovak Republic on the Convention on the Elimination of All Forms of Discrimination against Women of 18 July 2008 (CEDAW/C/SVK/CO4) that pointed out several areas where the Slovak Republic did not fully implement the provisions of the Convention. Based on its findings, the Committee formulated 42 recommendations and invited the Slovak Republic to give concentrated attention and priority to the areas it identified.

Summary report on the state of gender equality in Slovakia in 2009

42. Through its Resolution No. 315/2010 the Government adopted the Summary Report on the State of Gender Equality in Slovakia in 2009. The Report is primarily focused on the evaluation of the year 2008 – the year for which it was possible to collect the most comprehensive source data – and also points out certain risk factors presenting a threat to gender equality in a situation of global economic recession that emerged from preliminary analyses of the developments in 2009.

Level of representation of women in parliament, Government and in other public offices

(Data as of November 2009)

		<i>Members</i>				
<i>Gender structure of the political representation</i>	<i>Chairwoman / chairman</i>	<i>Total number of members</i>	<i>Women (number)</i>	<i>Men (number)</i>	<i>Women (%)</i>	<i>Men (%)</i>
<i>(Data as of November 2009)</i>	<i>(F = female, M = male)</i>					
European Parliament	-	13	5	8	38	62
(Slovak representation)						
Parliament of the Slovak Republic	M	150	27	123	18	82
Government of the Slovak Republic	M	16	2	14	12.5	87.5
(16 members)						
Ministries	F = 2	24*	3	21	12.5	87.5
(14 ministers – M+F)	M = 12					
Parliaments of self-governing regions (8)	F = 0 M = 8	408	63	345	15	85
Self-governing bodies (2006 data)	-	2905	601	2304	20.6	79.3

* The total number of State Secretaries (both F+M) was 24; at the self-government level, the number of mayors, heads of local councils (both F+M)

Data on the situation following the 2010 elections to the National Council of the Slovak Republic

<i>Institution</i>	<i>Women</i>	<i>Men</i>
	<i>Number/%</i>	<i>Number/%</i>
Parliament of the Slovak Republic	24/16%	126/84%
Government of the Slovak Republic	2/14.29%	12/85.71%

43. Within the current management of the Ministry of Justice of the Slovak Republic (hereinafter referred to as “the Ministry of Justice”), women hold the positions of the Minister of Justice and of the State Secretary. Also the President of the Constitutional Court is a woman.

44. Out of the current number of 75 judges of the Supreme Court of the Slovak Republic (hereinafter referred to as “the Supreme Court”), 34 are women. Women represent 8 out of 18 members of the Judicial Council of the Slovak Republic – 7 of them are judges of regional courts and of the Supreme Court and 1 is the Dean of the Law Faculty of P. J. Šafárik University in Košice. At present, 3 out of a total of 8 presidents of regional courts in Slovakia are women. The number of female and male presidents of 54 district courts in Slovakia is 23 and 31, respectively. Of the total number of 1,292 judges in Slovakia (excl. judges of the Supreme Court), 801 are women. Out of the total number of notaries in the Slovak Republic, 249 are women and 88 are men.

Reply to the issues raised in paragraph 11 of the list of issues

45. The principle applied in the prosecution and punishment of perpetrators of racially motivated crimes is that the victim (the injured party) need not give consent for the prosecution during the investigation of criminal offences committed among close persons. Similarly, perpetrators of criminal offences of violence against individuals, extortion, rape, sexual violence or sexual abuse of a close person a person in one’s care are liable to a more severe penalty than that would be imposed for the same offence committed against a stranger. Moreover, sentencing rates for the commission of these criminal offences were also increased.

The following table gives the statistics on the number of sentenced offenders and sentences received by perpetrators of criminal offences falling under the broader concept of “domestic violence” from 2003 to the 1st half of 2010.

<i>Criminal offences pursuant to CC No. 140/1961 Coll. and No. 300/2005 Coll.</i>	<i>Offender – a male and victim – a woman or a girl</i>		<i>Influence of alcohol</i>	<i>Unconditional term of imprisonment</i>	<i>Average length of proceedings (in months)</i>
	<i>Domestic violence</i>				
Murder with premeditation	4	0	0	4	39.57
Murder	8	1	2	8	10.57
Bodily injury	410	119	85	45	-

Restriction of personal liberty	21	5	6	5	7.35
Extortion	90	37	22	40	15.23
Rape	26	4	4	16	6.51
Sexual violence	23	0	4	4	6.46
Sexual abuse	125	1	4	21	8.25
Avoiding the maintenance obligation	740	1	1	60	-
Ill-treatment of a close person or a person entrusted into one's care	114	125	65	59	6.76
Violence against a group of citizens and against an individual	11	8	5	2	5.73
Serious threats	723	635	379	197	-

46. According to the current definition of the criminal offence of rape, it also includes the cases of marital rape. As far as assistance to the victims of domestic violence and legal recourse available to victims are concerned, more detailed information is provided in the reply to question 15.

47. The National Action Plan for the Prevention and Elimination of Violence against Women in 2009-2012 (hereinafter referred to as "the NAP") further develops operational objectives set out in the National Strategy for the Prevention and Elimination of Violence Committed against Women and in Families, refining them in the light of new facts and requirements of international documents and practice. For the most part, the tasks outlined in the new Action Plan represent concrete measures formulated on the basis of the preceding plan. New additions to the area of research are statistical surveys and monitoring; moreover, three expansion areas were also added: education and sensitisation of helping professions, violence against women at the workplace, and working with perpetrators of violence:

I The area of criminal law and civil law – the operational goal is to create conditions for the adoption of specific legislation and achieve effective implementation of the existing legislation in practice in order to ensure adequate protection of women subjected to violence and adequate punishment of perpetrators of violence.

II The area of the provision of assistance to women that had been or are victims of violence – the operational goal in this area is to ensure rapid and effective assistance to all women subjected to violence or threat of violence, taking account of specific needs arising from their situation.

III The area of education and sensitisation of helping professions – the operational goal in this area is to provide gender-sensitive training on the prevention and

elimination of violence against women to all helping professions and stakeholders, focusing mainly on such professions as police employees, healthcare personnel, judges and legal practitioners, social workers and psychologists, probation and mediation officers, and educational workers.

IV The area of prevention – the operational goal in this area is to prevent the onset of violence and any situation that contributes to engendering and tolerating violence.

V The area of statistics, research and monitoring – the operational goal in this area is to create an adequate knowledge base on various aspects of violence against women.

48. One of the key tasks for the police is protection of fundamental rights and freedoms, in particular protection of life, health, personal liberty and security of persons and protection of property. An important task for the police in connection with domestic violence is taking effective action against the aggressor and providing assistance to the victim while, at the same time, informing the victim of the possibility to handle her situation through organisations that are helping victims of crime by offering them free and discreet assistance, especially in the area of psychological counselling and legal advice, as well as safe accommodation. In case of criminal proceedings, these organisations may act as authorised representatives of victims.

49. Adverse social situations that may also result from endangerment presented by other natural persons (including domestic violence) can be addressed by means of social service rendered pursuant to Act No. 448/2008 Coll. on social services.

50. According to section 29 of the act on social services, social services establishments serving as emergency accommodation facilities provide social service to natural persons subjected to violence. Emergency accommodation facilities provide time-limited accommodation, social counselling, assistance in the implementation of one's rights and legally protected interests. They fulfil basic prerequisites for preparing meals, serving meals or for supplying food, for basic personal hygiene, washing laundry, ironing and maintenance of underwear and outerwear, and for special-interest activities. If there is a need to protect the life and health of a natural person who is a victim of violence, the emergency accommodation facility ensures the confidentiality of accommodation of that person and guarantees his/her anonymity. The number of emergency accommodation facilities in Slovakia as of 31 December 2009 was 33, with a total capacity of 917 persons.

The National Action Plan for the Prevention and Elimination of Violence against Women for 2009-2012

51. By its Resolution No. 438/2009 (of 17 June 2009), the Government adopted the National Action Plan for the Prevention and Elimination of Violence against Women for 2009-2012 (hereinafter referred to as "the NAP"). In formulating the tasks laid down in the NAP, account was taken also of the Concluding Observations of the UN Committee on the Elimination of Discrimination against Women addressed to the Slovak Republic after the examination of the second, third, and fourth periodic reports of the Slovak Republic on the Convention for the Elimination of All Forms of Discrimination of Women. The findings of the Committee indicate the need to adopt adequate measures for implementing the recommendations spelled out in the Concluding Observations of the UN Committee on the Elimination of Discrimination against Women.

52. The tasks outlined in the NAP are mostly formulated in continuity with the preceding plan and have the form of concrete measures in four initially identified areas ((I) criminal law and civil law framework, (II) provision of assistance to women who were or are subjected to violence, (III) prevention and (IV) research; the area of research was enlarged by the issues of statistical surveys and monitoring. Moreover, three expansion areas have been added to the document, namely (a) education and sensitisation of helping

professions, (b) violence against women at the workplace and (c) working with perpetrators of violence.

Reply to the issues raised in paragraph 12 of the list of issues

53. In connection with alleged forced sterilisations of Romany women, the Slovak Republic immediately adopted relevant legislative measures. Health legislation was subjected to a thorough review and the National Council adopted Act No. 576/2004 Coll. on healthcare and services related to healthcare provision and on amending and supplementing certain other acts as amended. The act introduces the notion of informed consent and provides that sterilisation may be performed only on the basis of a written request and written informed consent by a duly advised person with full legal capacity or by the legal guardian of a person incapable of giving informed consent, complemented with a written request and a ruling on the petition of the legal guardian issued by a court of law. The advice preceding the informed consent must include information about alternative contraception and planned parenthood methods, about possible changes in life circumstances which led to the request for sterilisation, medical consequences of sterilisation as a method aimed at the irreversible prevention of fertility, and the possible failure of sterilisation. The request for sterilisation is filed with the health provider performing the sterilisation.

54. The sterilisation request is examined and sterilisation is performed by a physician specialised in the field of gynaecology and obstetrics. The request for sterilisation of a man is examined and sterilisation is performed by a physician specialised in the field of urology. Sterilisation cannot be performed earlier than 30 days after receiving the informed consent. Act No. 576/2004 Coll. on healthcare and services related to healthcare provision and on amending and supplementing certain other acts also led to the amendment of the Criminal Code and introduced a new criminal offence of “illegal sterilisation”. The provisions of the new Criminal Code (No. 300/2005 Coll.) that took over this criminal offence have been in effect in Slovakia since 1 January 2006. According to section 159 of the Criminal Code, “illegal sterilisation” is a criminal offence against health and constitutes a serious violation of human rights. By introducing this criminal offence, the Slovak Republic implemented its international law commitments under international instruments on the protection of human rights and fundamental freedoms and other recommendations of relevant international bodies and organisations.

55. The institution authorised to monitor the giving of informed consent in Slovakia (including in connection with sterilisation) is the Healthcare Surveillance Authority established by Act No. 581/2004 Coll. on health insurance companies, healthcare surveillance, and on amending and supplementing certain other acts; this is a legal person that has been entrusted the surveillance of healthcare and public insurance in the area of public administration. To date, the Ministry of Health of the Slovak Republic (hereinafter referred to as “the Ministry of Health”) has not received any complaint alleging irregularities in the granting of informed consent in connection with sterilisations. Because of the following reason, we currently do not consider the granting of informed consent to be problematic.

56. The guarantee that the patient will receive proper information is given by the provision of section 6 of Healthcare Act No. 576/2004 Coll. referring to information provided to and informed consent given by the patient; according to this provision, medical practitioners are obliged to provide information in an intelligible and considerate manner, without pressure, allowing the patient the possibility and sufficient time to freely give or withhold his/her informed consent, and in a manner corresponding to the maturity of intellect and will and the state of health of the person concerned.

57. In the framework of the Health Promotion Programme for Disadvantaged Communities in Slovakia for 2009-2015, community health workers have been deployed in selected segregated and separate Roma settlements and localities; they work under the supervision of public health officers – healthcare employees of competent regional public health offices. Community health workers ensure communication between inhabitants of segregated and separate Roma settlements and localities and physicians, nurses or midwives, public health workers, and disseminate elementary health education and information within the community. The Programme is focused on health education and such problem areas as: personal hygiene, prevention of infectious diseases, sexual and reproductive health – responsible parenthood, handling of foodstuffs, ability to understand food labels, environmental protection, prevention of injuries and accidents, medical care (information about rights and responsibilities of patients, health insurance, preventive medical checkups, etc.), childcare.

58. No illegal sterilisations were proven and, should a person believe that she was subjected to illicit sterilisation, she may file a court action (or, if she suspects any irregularity in connection with the granting of informed consent, she may file a complaint with the Healthcare Surveillance Authority).

Non-discrimination, freedom from torture and cruel, inhuman or degrading treatment, liberty and security of a person, and the right to a fair trial (arts. 2, 7, 9, 14 and 26)

Reply to the issues raised in paragraph 13 of the list of issues

59. The unit specialised in the performance of control and inspection of the police within the Ministry of Interior is the Section of Control and Inspection Service of the Police Force. The unit having substantive competence to investigate crime committed by members of the Police Force is the Inspection Service Department of the Section of Control and Inspection Service. Criminal offences committed by members of the Police Force are investigated by a Police Force investigator from the Inspection Service Department of the Section; summary investigation is performed by the authorised member of the Police Force from the Inspection Service Department of the Section. The investigator of the Police Force and/or the authorised member of the Police Force from the Inspection Service Department examine each submission in compliance with the law, and each submission is decided in a manner provided for by law. Each decision on the merits of the case, rendered by the investigator of the Police Force or the authorised member of the Police Force, is reviewed by the competent prosecution office.

60. In connection with criminal offences committed by members of the Police Force, the Section of Control and Inspection Service annually prepares the following materials:

- Report on criminal activities of members of the Police Force; since 2007, the report is also published on the website of the Ministry of Interior
- Information about the steps taken by the Ministry of Interior in connection with investigating submissions filed by apprehended, detained and accused persons alleging they suffered injuries caused by the police.

61. However, as regards allegations of “ill-treatment” by police officers, especially the treatment of the Roma, it needs to be specified that the Section of Control and Inspection Service does not keep records concerning the victims disaggregated by gender, race, ethnicity or other indicators and that, consequently, it does not distinguish whether the victim is a Roma or a child or other. As regards the criminal offence of torture and other inhuman and cruel treatment pursuant to section 420 (previous section 259(a)) of the

Criminal Code, it follows from the reports on criminal activities submitted by the Section of Control and Inspection Service that no charges concerning this type of criminal offence were brought between 2003 and 2005 and between 2007 and 2009 against a member of the Police Force. In 2006, three members of the Police Force were charged with such a criminal offence. However, this only means that indictments were brought against these police officers, and criminal proceedings could have been concluded in different ways. As already mentioned above, we reiterate that because the Section of Control and Inspection Service does not keep victim records disaggregated by gender, race, ethnic origin or other indicator, relevant statistics do not make it possible to distinguish whether the victim was a Roma or a child or other.

62. In connection with the criminal offence of abuse of power of a public official pursuant to section 326, we mention the following case: in 2010, the media widely reported ill-treatment of six Roma boys at a Košice police station; after investigating the case, a prosecutor from the special assignments unit of the General Prosecution Office of the Slovak Republic filed indictments with the Košice II District Court against ten members of the Police Force; the Court has not yet finally decided on the indictment. Differentiated concurrent sentences were proposed for the accused at the level of increased statutory minimum sentence. In addition, at the time of indictment, seven of the ten charged members of the Police Force had already been discharged from the Police Force. Their service relationship with the police was terminated by discharge in accordance with section 192 (e) of Act No. 73/1998 Coll. on State service of members of the Police Corps, the Slovak Intelligence Service, the Corps of Prison and Court Guard and the Railway Police as amended, on the ground of a particularly gross infringement of the oath of service or official duties, because the continuation of their service relationship would infringe important interests of the State service.

63. We are adding in this connection that the Office of Border and Alien Police of the Ministry of Interior has not recorded any information to date about unlawful conduct of police officers that could be qualified as the offence of inhuman treatment, torture, racial violence or infringement of the anti-discrimination law.

64. As regards information on human rights training programmes for law enforcement officers we state that the system of training of Police Force officers is described mainly in replies to points 5 and 18.

65. The project of police specialists for work with communities continues to be implemented in the current programmes in the area of field social work; as regards the fulfilment of Police Force tasks, it has brought positive changes in the Roma settlements concerned. By rolling out the project of police specialists for work with communities, the public order service of the Police Force has made another important step towards improving services for the public; the project itself shows a new direction for the work of police officers, namely that in the performance of State service they should devote as much time as possible to communicating with people, ascertaining their problems, and providing adequate assistance. Police specialists have made an important contribution also to the strengthening of cooperation between the Police Force and citizens; in the given case they are gradually building the trust of Roma citizens in the work of the police.

Reply to the issues raised in paragraph 14 of the list of issues

(1) Persons placed in police detention cells

66. Section 44 para. 2 of the Act on the Police Force provides that if a police officer finds that a person to be placed in a cell is manifestly under the influence of alcoholic beverages, narcotic substances, psychotropic substances or medications, or that he/she is injured or claims to suffer from a serious disease or injury, the police officer will secure

medical treatment for that person and request a medical opinion on whether the person may be placed in the cell.

67. The Act on the Police Force does not specifically provide for cases where persons held in a cell sustain an injury as a result of ill treatment. According to section 48 of the Act on the Police Force, if a person placed in a cell falls ill, suffers an injury or attempts suicide, the police officer guarding the cell takes the necessary life and health protection measures, in particular the provision of first aid, and calls a doctor. The police officer notifies these facts without delay, including the death of a person placed in a cell, to the commanding officer of the Police Force unit which is in charge of the cell. The commanding officer of the Police Force unit notifies a physician and the competent prosecutor forthwith and, in the case of a death, informs a close person of the deceased. According to Regulation No. 41/2003 of the Minister of Interior as amended by Regulation No. 52/2005 of the Minister of Interior on police detention cells, the doctor summoned is among the persons who are authorised to enter a cell. The Regulation also provides that the authorised person may enter the cell only when accompanied by the police officer guarding the cell.

68. The Act on the Police Force does not stipulate the obligation to make video or audio recordings of interrogations of persons held in a cell. Nevertheless, section 45 para. 2 of the Act on the Police Force provides that a cell may be equipped with audio or video recording equipment to secure the connection with the police officer guarding the cell.

69. According to section 49 of the Act on the Police Force, a person placed in a cell has the right to file motions, petitions and complaints. In addition, compliance with legal provisions on placing and holding persons in cells is supervised by a prosecutor.

70. As far as the right of the detained person to confidential communication with his/her lawyer is concerned, section 19 of the Act on the Police Force provides that a detainee must be allowed upon request to notify a close person of his/her detention without undue delay, and to ask a lawyer for legal aid. If the detainee is a soldier, the police officer shall notify the nearest military unit or, if the detainee is underage, he/she shall notify the legal guardian of that person.

(2) Persons placed in police detention facilities for aliens

71. According to article 40 of the Constitution, all persons have a right to the protection of their health. In case of aliens/illegal migrants and their access to medical care, a police officer who comes in contact with an alien/illegal migrant complaining of health problems or showing signs of a disease must proceed in accordance with section 11 of Act No. 576/2004 Coll. on the provision of healthcare and services related to healthcare provision and on amending and supplementing certain other acts as amended, which governs the right of all persons to the provision of healthcare.

72. Section 68 of Act No. 48/2002 Coll. on stay of aliens and on amending and supplementing certain other acts as amended (hereinafter referred to as “the act on stay of aliens”) contains provisions on care for health of aliens detained and placed in police detention centres for aliens (hereinafter referred to as “the PDCA’s”). Aliens placed in PDCA’s are required to undergo a medical examination, the extent of which is determined by a doctor, and to be subjected to the necessary diagnostic and laboratory tests, vaccination and preventive measures specified by the health protection authority. Medical care in PDCA’s is provided on an outpatient basis by a physician and nurses directly within their premises. If an alien’s health condition calls for medical treatment that cannot be administered at the PDCA, the treatment will be provided in an external healthcare establishment.

73. The costs of healthcare are borne by the Ministry of Interior; however, in the case of deliberate self-inflicted bodily harm, the alien must reimburse the costs of treatment and the actual costs of guard service and transport to the healthcare establishment.

74. According to section 71, para. 2, of the act on stay of aliens, aliens may pursue their rights by filing applications and complaints to State authorities of the Slovak Republic; the police unit immediately mails them out.

75. Regarding the right of detainees to confidential communication with a lawyer according to section 63 (c) of the act on stay of aliens, the police unit has a duty to enable a detained alien to notify without delay a close person or a legal representative of his/her detention. Moreover, according to section 72, para. 2, of the act, an alien may receive without any restriction persons providing him/her legal protection.

76. Concerning the right of detainees alleging ill treatment to be examined by an independent doctor without the presence of a law enforcement official, no such case has been reported in actual practice in the Slovak Republic. The steps that would be taken by competent authorities would depend on the specific case; in this regard, an important role would be played by the personality of the detainee and the related safety of the doctor. It is also necessary to take into consideration the responsibility of the police officer for the person whose personal liberty he/she has restricted, and for persons with whom this person may come into contact.

77. An accused has a right to healthcare to the extent and under the conditions stipulated by separate legal acts. The legal system of the Slovak Republic guarantees the right of detainees to confidential communication with a lawyer as soon as they are taken into custody; the same right is granted to sentenced persons serving a term of imprisonment.

78. Based on a written court order, a person charged with a criminal offence (the accused) is admitted to remand in the relevant remand establishment. In the remand establishment, the accused has the right to personal communication with his/her lawyer without the presence of a third person.

79. Sentenced persons serving a term of imprisonment may speak with their lawyer without the presence of a third person. Sentenced persons have the right to legal assistance by a legal counsel or other person representing them in a different legal matter; the latter may, within the limits of his/her power of attorney, maintain written and oral communication with the sentenced person. The prison governor will ensure that a designated member of the staff can oversee but not overhear the communication between the prisoner and the lawyer.

Reply to the issues raised in paragraph 15 of the list of issues

80. The most significant progress in the protection of the right to reparation of victims of criminal offences, including torture and other cruel, inhuman or degrading treatment or punishment, has been achieved in the Slovak Republic with the ratification of the European Convention on the Compensation of Victims of Violent Crimes adopted by the Council of Europe and opened for signature in Strasbourg on 24 November 1983. The Convention was signed for the Slovak Republic on 14 December 2006 in Strasbourg. The President of the Slovak Republic ratified the Convention on 20 February 2009. It entered into force for the Slovak Republic on 1 July 2009.

81. The necessary conditions for the ratification of the Convention were created by the adoption of Act No. 215/2006 Coll. on the compensation of victims of violent crimes as amended by Act 79/2008 Coll. The Act was adopted, *inter alia*, as part of the implementation of international commitments of the Slovak Republic connected with its accession to the European Union on 1 May 2004. It transposes Council Directive

2004/80/EC of 29 April 2004 relating to compensation to crime victims (hereinafter referred to as “the Directive”) into the legal system of the Slovak Republic. The transposition of the Directive was aimed to improve access to the possibility of obtaining compensation for harm caused by intentional violent crime committed in the territory of a Member State of the European Union other than the Member State of permanent residence of the victim. To this end, a mechanism was put in place for filing compensation claims; the Slovak Republic’s body responsible for adjudicating such claims was established; and a body was created for the provision of necessary assistance in the filing of compensation claims to victims who are nationals of the Slovak Republic or of another Member State of the EU with 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 EU Member State. The compensation system (substantive provisions) has remained unchanged, and amendments were made only to the procedural provisions. The act ensures the continuity of compensation for victims of violent crimes within the competence of the Ministry of Justice, improves the possibility of victims obtaining information about the modalities of reparation, facilitates compensation for bodily harm suffered in the territory of another Member State, and thereby improves the situation of the victim in this area. At the same time, by being primarily focused on procedural elements without any changes in substantive provisions, it strengthens the procedural status of the victim. The compensation decision is made and the compensation is paid upon a written request from the victim by the decision-making body, which is the Ministry of Justice.

82. For the purposes of the above act, the victim is a person who has suffered bodily harm as a result of a criminal offence, and the surviving spouse and surviving child or, in the absence thereof, the surviving parent of the person who suffered death as a result of a criminal offence. Bodily harm means bodily injury, grievous bodily injury, death, rape, sexual violence and sexual abuse caused by a criminal offence committed by another person. If bodily harm was suffered in the territory of the Slovak Republic, compensation may be claimed by a victim who is a citizen of the Slovak Republic or of another Member State of the EU, or a stateless person who has permanent residence in the territory of the Slovak Republic or of another Member State. The compensation decision is made and the compensation is paid by the decision-making body, which is the Ministry of Justice, upon a written request from the victim.

83. The *Legal Aid Centre*, which has been in operation in the Slovak Republic since 1 January 2006, was established as a State-run budgetary organisation under Act No. 327/2005 Coll. on providing legal aid to persons in material need. The Centre secures the provision of legal aid to natural persons whose personal financial situation makes it impossible for them to bear the expenses of legal services in order to assert their rights. The Centre provides legal aid in civil matters, labour matters and family matters to all natural persons who meet the relevant statutory requirements (domestic disputes). In cross-border disputes, legal aid under the above act is provided only to natural persons who meet the relevant statutory requirements and are domiciled or habitually resident in the territory of a Member State of the European Union.

84. It should be mentioned that, as regards the statistics concerning the amount of compensation awarded between 2006 and 2010 (incl.) under Act No. 215/2006 Coll. as amended by Act No. 79/2008 Coll., it is possible only to estimate that approx. 10 % of the total amount of awarded financial compensation was paid to the victims of torture and ill treatment.

Statistics on the amount of compensation awarded, number of applications, number of matters settled between 2006 and 2010 (incl.) (until 30 June 2010)

<i>Year</i>	<i>Total compensation awarded</i>	<i>Number of claims</i>	<i>Settled claims</i>	<i>Award rulings</i>	<i>Negative rulings</i>
2006	€36,138.85	91	50 (2 of them "in a different manner")	12	36
2007	€136,909.85	74	26	14	12
2008	€264,773.12	73	41	35	6
2009	€217,785.23	43	64	42	22
2010	€78,887.49	31	14	12	2

(until 30 June)

85. Statistical data contained in the tables below present an overview of criminal offences of torture and other inhuman or cruel treatment (section 420 of the Criminal Code in force, and section 259a of the repealed Criminal Code) committed between 2006 and 2010 (incl.).

Statistics on criminal offences of torture and other inhuman or cruel treatment committed in the period of 2006 to 2010

<i>Year</i>	<i>Section, Criminal Code No. 300/2005 Coll.</i>	<i>Number</i>		<i>Sentences imposed</i>		
		<i>of sentenced persons</i>	<i>offences committed</i>	<i>UNCOD</i>	<i>COND</i>	<i>other separate sentences</i>
2006	section 420	0	0	x	x	x
2007	section 420	0	0	x	x	x
2008	section 420	0	0	x	x	x
2009	section 420 para. 3(a)	3	3	3	0	0
first half of 2010	section 420	0	0	x	x	x

Year	Section, Criminal Code No. 140/1961 Coll.	Number		Sentences imposed		
		of sentenced persons	offences committed	UNCOND	COND	other separate sentences
2006	section 259a	0	0	x	x	x
2007	section 259a	0	0	x	x	x
2008	section 259a, para. 2 (b)	1	1	0	1	0
2009	section 259a, para. 2 (b)	2	2	0	2	0
first half of 2010	section 259a	0	0	0	0	0

Explanation of abbreviations:

UNCOND (unconditional custodial sentence)

COND (conditional custodial sentence)

Reply to the issues raised in paragraph 16 of the list of issues

86. Persons diagnosed with mental or behavioural disorders must give consent on their hospitalisation in an institutional healthcare facility providing psychiatric care, and Act No. 576/2004 Coll. requires that patients must undergo psychiatric examination and be given information on hospitalisation. Persons divested of their legal capacity by court are appointed a legal guardian or a trustee who signs the consent for their hospitalisation. However, psychiatric examination is required even in that case. This applies to all psychiatric diagnoses – mental disorders including mental retardation.

87. Persons must give consent for their hospitalisation. Persons who do not give their consent may be placed in an institutional healthcare facility that provides psychiatric care only upon a court decision.

88. The manner of giving information, the content of information, informed consent, refusal to give informed consent, and withdrawal of informed consent are entered in medical records. In the case of informed consent given by the legal guardian, the entry in medical records also includes the statement by the person incapable of giving informed consent for the provision of medical care.

Any person, regardless of his/her legal capacity, has the right:

- to lodge a complaint with the attending physician,
- to lodge a complaint with the head physician of the healthcare establishment,
- to lodge a complaint with the healthcare department of the self-governing region;
- to file a petition with the healthcare surveillance authority,

- to file a petition with the Ministry of Health.

89. Every citizen has the right to lodge a petition with a court of law. He/she may request a retrial to determine whether the legal capacity status of the patient has remained unchanged. Where consent for hospitalisation was given by the legal guardian, the legal guardian will take part in further proceedings on behalf of the ward.

90. Supervising prosecutors perform supervision over conformity with laws and other generally binding legal acts in the facilities where protective treatment and institutional treatment is provided, by overseeing care provided to patients.

91. A “Methodological measure concerning the use of the means of restraint in patients at healthcare facilities providing psychiatric care” issued by the Ministry of Health of the Slovak Republic (hereinafter referred to as “the Ministry of Health”), which entered into effect on 30 June 2009, lays down in detail the rights of patients and responsibilities of the staff in connection with using the measures of restraint in psychiatric institutions in Slovakia. Article 5 states: “insofar as possible, patients are informed in advance and in an appropriate manner of the potential use of the means of restraint. In each patient, consideration must be given to using the least restrictive and the most appropriate means of restraint. In the case of using any means of restraint, the attending physician must discuss the reasons for and the necessity of restraint with the patient – provided the latter is capable of grasping the reasons for restraint. Patients subjected to restraint must be regularly controlled, control intervals must be determined, the risk of injury must be minimised, prevention of dehydration, malnutrition, hypothermia and bedsores must be ensured, and patients must have the possibility of performing personal hygiene and care. Means of restraint may be used only for the shortest necessary time and their need must be reconsidered during each control. The use of the means of restraint as such needs not entail restrictions of the right of patients to receive visitors.”

92. It follows from the opinion of the Ministry of Health’s chief specialist on the field of psychiatry that, based on the experience of psychiatric practice, survey of opinions of psychiatrists, knowledge of regional traditions and customs, and knowledge of transcultural psychiatry, the placing of a person suffering from a mental or behavioural disorder in a net-bed is considered to be more humane and dignified than other forms of restraining patient’s movements. This also reflects the specific cultural and psychological characteristics of our region, which the Slovak Republic strives to respect. One of these specific characteristics is that people consider certain forms of restriction of patient’s movements to be humiliating and even degrading (such as strapping a person down to a bed, or placing a person in a secluded room without the possibility of immediate contact with attending staff and monitoring him/her with cameras or through a semi-transparent glass; moreover, the practice of certain countries where patients placed in secluded rooms are completely naked for security reasons is unacceptable for many patients in Slovakia). The practice that Slovak patients and public consider to be the most acceptable is the placement of patients in net-beds, since a net-bed allows for at least partial mobility of patients and more immediate contact with staff members than other forms of movement restriction.

Reply to the issues raised in paragraph 17 of the list of issues

93. Amendment to Act No. 757/2004 Coll. on courts, which dissolved military courts in the Slovak Republic entered into force on 1 April 2009. The proceedings pending before military courts prior to 1 April 2009 were or are being concluded by district courts, and appeals are decided by the Supreme Court acting in lieu of the Higher Military Court.

94. Before the dissolution of military courts, military circuit courts (acting as first-instance courts) and the Higher Military Court (acting as the appeal court) had *ratione personae* jurisdiction over members of the Armed Forces of the Slovak Republic, the Police

Force, the Railway Police, the Prison and Court Guard, the National Security Office, the Slovak Intelligence Service and customs officials, members of the armed forces of the sending State for crimes committed in the territory of the Slovak Republic, in conformity with the international treaty, and over prisoners of war.

95. The jurisdiction of military courts over the above-mentioned persons extended also to military criminal offences, as laid down in Title Eleven of the special part of the Slovak Criminal Code, committed outside of active duty while wearing a service uniform. Moreover, military courts also had jurisdiction over civilians, but only in respect of the following criminal offences: war treason, service in a foreign military, and failure to report for service in the armed forces.

Rights of aliens (art. 13)

Reply to the issues raised in paragraph 18 of the list of issues

96. The act on stay of aliens prescribes the conditions and the procedure of administrative expulsion of aliens from the territory of the Slovak Republic. Section 57 of the act gives the exhaustive list of grounds on which an alien may be expelled from the territory of the Slovak Republic, and the length of the ban on entry determined in light of the severity of infringement committed by the alien.

97. The decision to expel an alien from the territory of the Slovak Republic is made by the competent police departments, namely the Alien Police Department of the Police Force and the Border Control Department of the Police Force. The administrative expulsion procedure includes, as its compulsory part, the determination of whether the “non-refoulement” principle applies. In the national legislation of the Slovak Republic, the “non-refoulement” principle as laid down in Article 3 of the European 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., is provided for in section 58 of the act on stay of aliens entitled “Impediments to administrative expulsion”.

98. Before issuing any administrative expulsion decision, the police department has a duty to determine whether there are any impediments to administrative expulsion of the alien from the territory of the Slovak Republic.

99. The police department performs such determination mainly on the basis of the statement/deposition made by the alien in the course of the administrative expulsion procedure. The additional source used to confirm or exclude the existence of impediments to administrative expulsion is information about the country of origin obtained from the documentation department of the Migration Office of the Ministry of Interior, which conducts comprehensive documentation, information and analysis activities concerning individual countries, mainly in the form of retrieval, collection, analysis and supply of such information to relevant institutions. Consideration is also made of information on the country of origin provided by the Ministry of Foreign Affairs of the Slovak Republic, and information sent by police attaches at Slovak embassies abroad.

100. If no impediment to administrative expulsion is established, the police department has a duty to state in its decision on administrative expulsion that there is no impediment to administrative expulsion and that it gave due consideration to the matter, i.e. that it examined the existence of impediments to administrative expulsion.

101. If the police department establishes that there are impediments to administrative expulsion, it issues no decision on administrative expulsion of the alien; this situation

entitles the alien to be granted a tolerated stay permit according to section 43 para. 1 (a) of the act on stay of aliens.

102. The alien may appeal against the decision on administrative expulsion within 15 days of receipt of the decision. The appeal will be dealt with by the police department that issued the decision and, if the appeal is granted in full (the so-called auto remedy) the police department will issue a decision quashing its original decision. If the police department does not grant the appeal, it will refer it to the next higher administrative body within 30 days of receipt of the appeal. In the conditions of the Slovak Republic, these bodies are the Bratislava and Prešov Directorates of Border and Alien Police, the Nitra and Banská Bystrica Directorates of Border Police and the Sobrance Directorate of Border Police. The alien may file a petition against the final decision with the competent regional court pursuant to section 247 ff of Act No. 99/1963 Coll., the Code of Civil Procedure as amended. If this happens, the decision on administrative expulsion is enforceable, but the court may issue a resolution suspending its execution (section 250 (c)).

103. Every alien must be advised, in a language he/she understands, of the possibility of lodging an appeal.

104. At each stage of the decision-making on administrative expulsion, and at the stage of actual execution of the decision, the alien may apply for international protection under the law on asylum. After the alien's application for international protection has been admitted for further proceeding, the alien is authorised to stay in the territory of the Slovak Republic pursuant to section 22 of the asylum act; at the same time, this constitutes an impediment to carrying out the decision on administrative expulsion pending the final decision on international protection.

105. Systematic training of police officers plays an important role in ensuring the rights and protection of aliens and applying the "non-refoulement" principle on a non-discriminatory basis. The training of police officers involved in the administrative procedure connected with administrative expulsion proceedings and detention proceedings may be divided into two categories.

106. The first category includes the training of police officers offered at relevant levels of the police school system in the framework of basic, specialised and higher police training. The second category is represented by the system of further training of police officers, and training in the form of daily instruction sessions conducted by managerial staff, regular training courses on issues of relevance for border and alien police, instruction and methodology courses, etc. In the specific field of alien police, this type of training is organised by the alien police department of the Office of Border and Alien Police within the Ministry of Interior and takes the form of regular and repeated training sessions.

Reply to the issues raised in paragraph 19 of the list of issues

The right to a legal representative

107. According to section 16, para. 2, of the asylum act, legal acts are carried out on behalf of the alien who is not of full age by his/her legal guardian. If the alien staying in the territory of the Slovak Republic does not have a legal guardian, he/she is appointed a trustee by court order.

108. In accordance with section 17a, para. 1, of the asylum act, the asylum seeker, his/her legal guardian or a trustee may choose to be represented by a lawyer or other representative of his/her choice; asylum seekers may be represented only by a natural person with full legal capacity, or by the Legal Aid Centre. The person referred to in the first sentence may have only one chosen representative for one and the same matter.

109. Pursuant to Section 4 para. 2, of the asylum act, the designated official of the Ministry of Interior, before filling out the questionnaire (admission interview) but not later than 15 days from the commencement of the proceedings, shall advise the asylum seeker on the rights and obligations during the asylum procedure, the possible consequences of defaulting on or breaching the latter's obligations under the act, the possibility of being represented in the proceedings under this act, and access to legal aid. The Ministry of Interior will also inform the asylum seeker about non-governmental organisations providing assistance to asylum seekers; instructions and information are provided in writing and, where possible, in a language that the applicant is deemed to understand.

110. Since 1 December 2008, the provision of free legal aid to asylum seekers is secured by the Legal Aid Centre (hereinafter referred to as "the Centre"). The Centre provides free legal aid through its staff or lawyers it has appointed.

111. An alien has the right to legal aid in an asylum matter only if

1. he/she has applied for legal aid in an asylum matter,
2. he/she does not have a representative in the proceedings whereby he/she requests legal aid under the Legal Aid Act, and
3. the Ministry of Interior has issued a decision within the asylum proceedings
 - not to grant asylum
 - to reject the asylum application as manifestly unfounded,
 - to reject the asylum application as manifestly inadmissible or
 - to terminate the asylum proceedings on the ground that the asylum application had already been decided before and there has been no substantial change in factual circumstances.

112. This means that the Centre provides free legal aid after the Ministry of Interior has issued its decision. The Centre does not provide legal aid where the asylum procedure was terminated; this does not apply if the asylum procedure was terminated on the ground that the application had already been decided before and there has been no substantial change in factual circumstances.

113. If the applicant for legal aid is entitled to legal aid in an asylum matter, the decision issued by the Ministry of Interior in the proceedings on granting asylum is served only on the Centre.

114. The Centre will take urgent legal aid measures; in particular, it will file a legal remedy, including where the application is not complete. All acts carried out by the Centre are considered to be acts carried out by the applicant. In the case of an incomplete application for legal aid, the Centre will invite the applicant to complete it within reasonable time. If the applicant fails to complete the application within the prescribed period, the representation by the Centre or by the lawyer designated by the Centre will be terminated.

115. If the applicant, after filing the request for legal aid, chooses his/her lawyer for the proceedings in which he/she requested legal aid under the act on legal aid, this is considered as a withdrawal of the request.

116. At present, free legal aid is also provided through non-governmental organisations within the framework of projects financed from the European Refugee Fund.

Right to an interpreter

117. According to section 18, para. 1, of the asylum act, if a party to the proceedings does not have a command of the Slovak language, the Ministry of Interior shall retain an interpreter for asylum proceedings. The party to the proceedings is entitled to use the language in which he/she is able to communicate.

118. According to section 18, para. 2, of the asylum act, the party to the proceedings may also retain an additional interpreter for the proceedings at his/her own costs.

119. According to section 6, para. 2, of the asylum act, the asylum seeker is obliged to appear for an interview at the time and place designated in the summons of the Ministry of Interior, written in a language he/she is deemed to understand. The interview is conducted in a language in which the applicant can communicate, and in a manner ensuring the necessary confidentiality. The authorised official of the Ministry of Interior compiles the minutes of the interview.

120. Pursuant to section 6, para. 4, of the asylum act, where there are reasons warranting special consideration and within the limits of its possibilities and resources, the Ministry shall ensure that the interview is conducted and interpretation is provided by a person of the same sex as the applicant. The Ministry shall ensure that the interview be conducted by a person capable of taking into account the applicant's personal situation including his/her origin, gender, and age.

121. According to section 20a, para. 1, of the asylum act, the asylum application decision is served to the party to the proceedings at the time and in the place designated by the Ministry of Interior; where the party has a legal guardian or a trustee, the decision is served only to the legal guardian or the trustee. If the person referred to in the first sentence has a representative granted the power of attorney for the entire procedure, the decision is served only to that representative. If a party to the proceedings is eligible for legal aid under separate provisions, the decision is served only to the Legal Aid Centre.

122. Section 20a, para. 2, of the asylum act provides that a party to the proceedings, his/her legal guardian or trustee must, at the time of being served a decision in asylum proceedings, be made aware of the content of the decision in a language he/she understands.

Freedom of speech (art. 19)

Reply to the issues raised in paragraph 20 of the list of issues

123. A group of members of the National Council of the Slovak Republic filed a motion on 26 September 2008 before the Constitutional Court requesting a review of the compatibility of the provisions of section 4, paras. 1 to 4; section 7, para. 1; section 8, para. 1, second sentence after the semicolon, and section 10, para. 4 of Act No. 167/2008 Coll. on periodical press and agency news service and on amending and supplementing certain other acts (the press act) with article 13, para. 4, first sentence of the Constitution, article 26, para. 4 of the Constitution, and article 10, para. 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. To date, the Constitutional Court has not issued a decision in the matter.

Principle of equality and non-discrimination, protection of the family and the child (arts. 2, 17, 23, 24)

Reply to the issues raised in paragraph 21 of the list of issues

124. In the period of 2001-2006, the Ministry of Education of the Slovak Republic (hereinafter referred to as “the Ministry of Education”) issued the following generally binding legal acts and sector-specific regulations aimed at motivating pupils to study at secondary schools and, at the same time, giving them a second chance to complete their primary and secondary education:

- Decree No. 311/2004 Coll. of the Ministry of Education on the provision of scholarships to pupils of secondary schools and of special schools as amended by Decree No. 343/2006 Coll. The Decree extended the provision of scholarships also to pupils of secondary schools and special secondary schools assessed jointly with other members of the family whose income does not exceed the subsistence minimum set out in Act No. 601/2003 Coll. on subsistence minimum and on amending and supplementing certain other acts as amended. The Decree also expanded the grounds for granting secondary school scholarships beyond the provision of assistance in material need to also include the criterion of subsistence minimum of the family. Pupils are granted financial aid also to reward their school performance in order to increase the educational level of pupils and enable them to commute to secondary schools, which are often located outside of pupils’ municipality of residence;
- Guideline No. 1/2004-E of the Ministry of Education setting out the procedure to be applied by schools in the determination of average academic performance of primary school pupils for the purpose of granting subsidies to finance scholarships provided to children in material need;
- Guideline No. 1/2006-R of the Ministry of Education setting out the procedure to be applied by schools in the determination of average academic performance of primary and special primary school pupils for the purpose of granting subsidies to finance motivational allowance for children designed to help prevent their social exclusion;
- in accordance with the Memorandum on Cooperation in the Implementation of National Project IIIa Education and Training for Labour Market and Vocational Practice signed between the Ministry of Education and the Ministry of Labour, Social Affairs and Family, a pilot project on “The Completion of Primary School” was implemented in 2004-2006;
- conditions for granting scholarships are stipulated in section 149 of Act No. 245/2008 Coll. on Education (the school act) effective from 1 September 2008; it stipulates that pupils eligible for scholarships must be full-time pupils of secondary schools, vocational schools or practical schools, assessed jointly with persons whose average monthly income in the calendar year preceding the calendar year for which the scholarship is requested does not exceed the subsistence minimum.

125. The following facts are considered to constitute an important factor in connection with the steps taken to reduce the incidence of school failures:

- provisions of Act No. 245/2008 Coll. on education and instruction (the school act) setting out the ten-year compulsory school attendance. During the first nine years, pupils attend a primary school; they complete the tenth year of compulsory school attendance at a secondary school (the study lasts 4 to 5 years and ends with a school-leaving examination whereby the pupil obtains full secondary general education – grammar school (gymnasium) or full secondary vocational education – secondary

vocational school) or at a vocational training establishment (the study lasts 3 to 4 years and ends with a final examination whereby the pupil obtains secondary vocational education);

- an important factor in this context is also the fact that even pupils who have not completed primary school education or who failed in the last year of primary school may continue to study at a secondary vocational school offering two-year vocational training concluded with a final examination whereby they obtain lower secondary vocational education qualifying them for the performance of certain professions. After the successful completion of this type of study, pupils can transfer to academic or vocational programmes enabling them to acquire secondary vocational education or full secondary vocational education and thus to obtain academic or vocational qualification for entry to the labour market.

126. Other steps aimed at reducing the incidence of school failures and the number of early school leavers (dropouts):

- helping Roma parents to place their children in kindergartens – connected with deferred entry to school and related elaboration of developmental programmes, individualised approach, special pedagogical care;
- giving pupils who are poor performers in certain subjects a chance to receive free tutoring in these subjects;
- discussions with parents and assignment of exercises for a second examination;
- possibility of approx. 2 consultations with a teacher during school holidays;
- consistent application of screening for testing the school aptitude of Roma children;
- conducting a psychological diagnosis and a follow-up diagnosis;
- if learning disabilities are detected, Centres for Educational and Psychological Counselling and Prevention (hereinafter referred to as “the CEPCPs”) offer the possibility of re-education and help in the elaboration of individualised educational programmes;
- counselling assistance to parents of Roma children, information on specific problems of the child and ensuing recommendations on how to work with the child;
- steps to increase the proportion of Roma children in pre-primary education, guidance for kindergarten teachers;
- in case of deferred entry to primary school, cooperation with learning centres for Roma children, methodological and professional support in the implementation of developmental programmes aimed at improving cognitive, communication, social and motor skills of Roma children;
- participation of CEPCPs in the enrolment of Roma children to the first year of primary school;
- preferential placement of Roma children in preparatory classes (“zero years”) at the cost of deferred entry to primary schools;
- cooperation with Roma assistants to teachers in primary schools, lecturing for the Methodology and Counselling Centre in Prešov aimed at increasing teachers’ competence in the area of psychoeducation and psychodidactics;
- prevention measures were formulated in cooperation with the principals of primary schools, class teachers, educational counsellors and prevention coordinators aimed at

reducing truancy, problem behaviour of Roma pupils and improving their educational outcomes;

- permanent task of school psychologists to oversee education and instruction of Roma pupils and propose effective approaches.

127. The CEPCPs provide systematic advisory and counselling assistance to the teaching staff on education of Roma pupils at different levels of the education system.

- Visits of teachers in families of children who miss more than 15 classes;
- If the Roma wish to complete their primary education, they should be given a chance to do so (upon request).

Reply to the issues raised in paragraph 22 of the list of issues

128. In the area of criminal law, the current Criminal Code (No. 300/2005 Coll. as amended) criminalizes and punishes torture and ill treatment of children, and protects children from physical violence, psychological violence, torture, inhuman treatment and humiliation, neglect or abuse. According to the legislation in force, corporal punishment is any punishment in which physical force is used with the intent of causing pain or discomfort. It involves hitting children with the hand, wand, stick, belt or other implement. It can also involve kicking, shaking, throwing, scratching, pinching, pulling hair and other acts. The boundary between corporal punishment and torture – conduct criminalized by the Criminal Code – is determined by the intensity of action. If corporal punishment is so intense that it meets the constituent elements of the criminal offence of torture of a close person or a person entrusted to one's care, the perpetrator bears criminal responsibility in accordance with the relevant provisions of the Criminal Code.

129. Among the legislative measures aimed at banning corporal punishment of children in a family, the National Council of the Slovak Republic adopted Act No. 466/2008 Coll. amending and supplementing Act No. 305/2005 Coll. on social and legal protection of children and social guardianship and on amending and supplementing certain other acts as amended, which introduces the so-called zero tolerance (section 7 of the Act). The legislation on zero tolerance for corporal punishment is based on the Convention on the Rights of the Child and Concluding Observations of the UN Committee on the Rights of the Child (CRC) concerning the report of the Slovak Republic on progress attained in the implementation of the Convention on the Rights of the Child. It also responds to the Council of Europe's programme "Building a Europe for and with children" which pursues the elimination of all forms of violence against children by ensuring protection of children, prosecuting perpetrators of violence and ensuring children's participation, including through the development of comprehensive legal frameworks.

130. Section 7 of Act No. 466/2008 Coll. lays down the duty of every natural person to alert the bodies for social and legal protection of children and social guardianship to the violations of the rights of the child. The Slovak Republic recognises that the legality of corporal punishment infringes the right of children to equal protection under the law. If a body for social and legal protection of children and social guardianship is alerted to the use of gross or degrading forms of treatment and forms of punishment of a child or if, while implementing measures under the Act, it finds that they are being used by a parent or a person taking personal care of a child, it has a duty to apply relevant provisions of the Act (section 7, para. 2) in line with the nature and gravity of such acts. This body may choose from a wide range of available measures – from less stringent (such as an educational measure – admonition) to the most severe measures such as filing a court petition proposing the imposition of institutional care. This legislation does not prejudice the notification obligation of the body for social and legal protection of children and social guardianship. The implementation of measures under this Act entails the prohibition of any form of

corporal punishment of the child and other gross or degrading forms of treatment and punishment that cause or are liable to cause physical or psychological harm to the child (section 7, para. 3). The Act entered into effect on 1 January 2009.

131. In connection with preparing policy papers and strategic documents, a “Draft National Action Plan for Children in the Period 2009-2012” (hereinafter referred to as “the NAP”) was submitted for Government’s deliberations at its 13th session on 21 January 2009; the NAP draws on the Concluding Observations of the Committee on the Rights of the Child concerning the second periodic report of the Slovak Republic on the Convention on the Rights of the Child adopted on 8 June 2007, which has been incorporated into the NAP.

132. If a body for social and legal protection of children and social guardianship is alerted to the use of gross or degrading forms of treatment and punishment of a child or if, while implementing measures under the Act, it finds that they are being used by a parent or a person taking personal care of a child, it has a duty to apply relevant measures provided for in the act on social and legal protection of children and social guardianship and on amending and supplementing certain other acts as amended.

133. Act No. 245/2008 Coll. on education and instruction (the school act) and on amending and supplementing certain other acts as amended prohibits the use of all forms of corporal punishment in schools and school facilities, i.e. including in school dormitories.

Right to take part in political affairs and minority rights (arts. 25, 27)

Reply to the issues raised in paragraph 23 of the list of issues

134. Article 30, para. 4 of the Constitution provides that “citizens shall have access to elected and other public offices under equal conditions.”

135. All legal norms governing the exercise of the active and passive voting right provide that the voting right is universal, direct and equal and is exercised by secret ballot. The conditions for the exercise of this right are equal for all candidates irrespective of their ethnic, national or linguistic background. The representation of minorities in political and public life is not monitored.

136. In the Government Manifesto for the 2010-2014 term, the Government pledged to create a space for the implementation of the right of citizens, including those belonging to minorities, and of persons with permanent residence in the Slovak Republic, to take effective part in public affairs. This right includes their right to access to information, and the right to effectively influence the decision-making processes by which they are directly affected.

137. The Government also pledged to amend the statute of the Government Council on National Minorities so that it can become a representative and functional forum for national minorities in the Slovak Republic, and a space wherein they could effectively participate in running their own affairs in line with the Commentary of the Advisory Committee on the Framework Convention for the Protection of National Minorities of the Council of Europe on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs.

138. The Government appointed a Deputy Prime Minister for Human Rights and Minorities granting him reinforced management and decision-making powers in the area of national minority cultures and education.

139. Moreover, the Government gave the undertaking to promote full-fledged participation of Roma in social, cultural and political life on the basis of their status as a

national minority, and to address key problems connected with socially excluded Roma communities. The Government will carry out its measures by means of concrete long-term and coordinated policies with objectively measurable effects, and with the aim of achieving effective citizens' equality. The Government will apply the approach that will respond to the real needs and priorities of municipalities, regions and of Roma themselves, that will be comprehensive and balanced in relation to addressing the social situation and observing human rights on the one hand, and strengthening the principle of personal responsibility of Roma themselves on the other hand. The measures aimed at social inclusion will be conceived in a manner fostering the observation of social standards and social values.

140. The Government will place special emphasis on the implementation of the following principles:

- effective application of the non-discrimination legislation, fight against racial and ethnic discrimination in the area of education, employment, housing, health and social services;
- greater involvement of self-governing regions and municipalities with a view to increasing the effectiveness and better targeting of positive measures;
- supporting the participation of the Roma in public and political life and strengthening their personal responsibility;
- applying a comprehensive approach to the use of EU funds for the development of municipalities with Roma settlements, and supporting the continuity of implementation of well-tested and successful programmes.

Dissemination of information relating to the Covenant and the Optional Protocol (art. 2)

Reply to the issues raised in paragraph 24 of the list of issues

141. The dissemination of information on the Covenant and on the Optional Protocols will be promoted also through the intermediary of the newly constituted Council of the Government of the Slovak Republic on Human Rights, National Minorities and Gender Equality; the Council will deliberate on all periodic reports of the Slovak Republic concerning international human rights instruments, taking heed of the recommendations made by the monitoring bodies.
