



European network of legal experts in gender equality and non-discrimination

NEWS REPORT

Country:	Slovakia
Title:	Slovak ombudswoman presenting her annual report to the Parliament
Date:	26 June 2015
Expert:	Janka Debrecéniová
<u>Context</u>	
Issue at stake:	On 24 March 2015, the Slovak ombudswoman presented her annual report to the Parliament, touching upon some aspects of discrimination of Roma children in education, and upon barriers the elderly face when wanting to access social services. The ombudswoman also reiterated her concerns connected to the underfunding of the ombudsperson's office. Ethnic origin, age, disability; all grounds
Ground of discrimination:	
Source:	Policy development
Field:	Education, social protection; other (the functioning of the ombudsperson's office)
Applicable law:	Zákon č. 564/2001 Z. z. o verejnom ochrancovi práv v znení neskorších predpisov (Act No 564/2001 Coll. on the Public Defender of Rights, as amended)

Content

Policy development: On 24 March 2015, the Slovak ombudswoman presented her annual report for 2014 to the National Council of the Slovak Republic (the Slovakian Parliament).¹ The ombudsperson is not an equality body but a public body established to contribute to the protection of fundamental rights and freedoms in the exercise of activities by public administration bodies.

In her 2014 annual report, the ombudswoman reported on a survey carried out by her office in 2014 on the exercise of the right to education by children 'coming from a socially disadvantaged background, with language, cultural and social barriers, most frequently of Roma origin and also from marginalised environments'.² The survey started with meetings with stakeholders from the Ministry of Education, Science, Research and Sport and from the Research Institute of Children's Psychology and Pathopsychology, and continued with questionnaires being filled in by directors of selected primary schools with

¹ *Správa o činnosti verejného ochrancu práv za obdobie kalendárneho roka 2014* (Report on the Activities of the Public Defender of Rights for the period of 2014), available at <http://www.vop.gov.sk/files/sprava.pdf> (accessed 08 June 2015).

² See pp 51-54 of the report for the description of the survey and its outcomes.

special classes, of selected special primary schools, and of selected centres for pedagogical-psychological counselling.³ The 2014 survey was a continuation of a survey carried out in 2013 which revealed systemic violations of the right to education of children with special educational needs by the existing system of so-called 'special schools'. In the words of the ombudswoman (but also pursuant to the generally known facts), special schools hinder the acquisition of education comparable to education of children attending mainstream schools. The ombudswoman's 2013 survey confirmed that in order for a child to be placed in a special school, it has to be diagnosed with a 'mental disability'. In her 2014 annual report, the ombudswoman emphasised a finding of the 2013 survey that out of Roma children coming from socially disadvantaged and marginalised environments, the majority gets placed into special schools, and that re-diagnostics in these schools is rare. She also pointed to the fact that such a high occurrence of 'mental disability' among Roma children is not statistically possible, and emphasised the paradox of children with a 'mental disability' to have to speak two languages (since in special schools, education is run in the state language only, which the Roma children often cannot speak).

Thus, in the 2014 survey, the ombudswoman concentrated on the diagnostics and re-diagnostics of children placed into special schools. The ombudsperson's office found that there is no difference between the testing of children of Roma origin and the testing of non-Roma ones (with only one of the psychologists participating in the survey carrying out the testing in Roma language). The ombudswoman also noted that in the last five years, no changes in the testing methods took place. The report also pointed out that it is not possible to find out whether re-diagnostics is carried out and how – but that in a majority of cases, re-diagnostics is carried out by the person having carried out the diagnostics. The ombudswoman concludes that the system of diagnostics and re-diagnostics – which 'does not take into consideration the incomparable situation of a child coming from a different cultural, social and language environment of a national minority coming from a socially excluded community, often with a language barrier' – is discriminatory (the report does not specify the form of discrimination). In her 2014 annual report, the ombudswoman reminded the Parliament that in 2013, she had called upon the Ministry of Education to carry out various measures including the abolition of the 'special schools of variant A' where children with 'light mental disability' are placed (and addressed the same recommendation to the Parliament in her 2014 annual report⁴), and to provide for adequate diagnostics and re-diagnostics that would accommodate the 'abilities of children coming from socially disadvantaged environment of marginalised Roma communities'.⁵

The ombudswoman also devoted a significant part of her 2014 annual report to the issue of the rights of the elderly, including their right to access social services.⁶ Following a survey carried out in 2014, the ombudswoman focused on the access of elderly people to facilities that provide 24-hour facility-based care and concluded that there are serious barriers to this access. Some of the barriers identified by the ombudswoman include: high level of disability threshold enabling an elderly person to get to the facility providing the care for a state-subsidised fee (other persons have to pay a full fee), non-sustainable system of state subsidisation of the services, unavailability of the services in sufficient amounts (which generates long waiting periods), and unaffordability of the services for a lot of elderly people.

³ See the full text of the report on the survey of 2014 (*Správa verejnej ochrankyne práv: Vplyv testovania školskej spôsobilosti na základné práva dieťaťa z nepodnetného prostredia s kultúrnou, sociálnou, jazykovou bariérou, najmä z rómskej národnostnej menšiny* [Report of the Public Defender of Rights : The Impact of Testing of the School Eligibility on the Fundamental Rights of the Child from a Non-Challenging Environment with a Cultural, Social, Language Barrier, Mainly from the Roma National Minority]) available at <http://www.vop.gov.sk/files/Sprava%20VOP%20FINALNA%20VERZIA.pdf> (accessed 25 April 2015), p 7.

⁴ See p 103 of the report, point 2.1.1.

⁵ See p 54 of the report.

⁶ See pp 64-82 of the report.

In its 2014 annual report, the ombudswoman also reiterated her long-term concerns connected to the lack of resources provided by the government to the ombudsperson's office, which, according to the ombudswoman, leads to a constant understaffing of the office, to the office lacking a regional outreach, and which challenges the ability of the office to perform its statutory tasks, and its independence from the government. The ombudswoman noted that she finds the approach of the government purposeful. The ombudswoman recommended to the Parliament to provide for a legislative change that would provide the office of the ombudsperson a special chapter in the state budget.⁷

Key points of analysis:

- The ombudswoman surveying and reporting on various aspects of discrimination of Roma children in education in so-called special schools, pointing attention mainly to inadequate diagnostics and re-diagnostics but also to the existing concept of 'special schools of variant A' which she proposes to abolish.
- The ombudswoman surveying and reporting on legislative and other barriers to access 24-hour facility-based care social service for the elderly.
- The ombudswoman repeatedly reminding the Parliament and the government of inadequate funding of her office, which challenges its independence and performance of its tasks.
- The government constantly unresponsive to the ombudswoman's findings and recommendations.

Internet link source: <http://www.vop.gov.sk/files/sprava.pdf>

⁷ See pp 104-105 of the report for more details.