



European Network Against Racism
Réseau européen contre le racisme

ENAR Shadow Report 2012-2013

ENAR SHADOW REPORT

Racism and related discriminatory practices in employment in Slovakia

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are, by their nature, based on many sources of data - official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by racism. It is this that gives NGO reports their added value, complementing academic and official reporting.

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Executive summary

The report on racism and discrimination in Slovakia's labour market offers an overview of the practical, legal and political factors that affect the situation of minorities in the field of employment. It describes the most common discriminatory practices facing minorities in this area and outlines available tools of legal protection against discrimination. Last but not least, the report also points out basic flaws of these tools and other obstacles to combating discrimination.

The available data presented and examined in the present report show that the issues of unemployment, disadvantaged status on the labour market, and various discriminatory practices in the field of employment particularly and regrettably concern members of the Romani minority. That is why the report pays principal attention to discrimination against this population group. To a lesser extent, it also focuses on the achieved degree of integration and discrimination on the labour market with respect to migrants, especially third-country nationals.

The jobless rate among members of the Romani minority, especially those who inhabit segregated settlements, is as high as 70%.¹ The remaining 30% of Roma who are lucky enough to have a job are required to perform primarily hard manual labour with low pay and poor legal protection.² But unemployment plagues not only Roma from socially excluded communities but also qualified Roma with university diplomas. This state of affairs is documented by numerous stories of desperate Roma who turn for help to non-governmental organizations as well as an extensive field survey carried out by the United Nations Development Program³; among other findings, the survey provided for a comparison of the employment rate among equally educated Romani and non-Romani job seekers, which shows a significant disproportion in favour of the latter.

Migrants and Roma are both vulnerable population groups and, as a result, are the most frequent victims of direct discrimination. Roma are discriminated on the basis of their ethnicity, which is often assumed and perceived by others based on criteria such as surnames, physical appearance and skin colour. As far as migrants are concerned, they are also subject to indirect discrimination, which most frequently shows through language requirements set by employers.

Discrimination against the Roma is demonstrated most commonly through the expressed preference of native job seekers over Romani, which often happens even when the former lack required qualifications and the latter have complied with all the formal requirements. The report also brings testimonies about instances when Romani employees were transferred from certain positions because their employers feared reduced demand for their goods or services if they continued to be performed by Roma. Third-country nationals must overcome various bureaucratic obstacles if they want to enter Slovakia's labour market; here, indirect discrimination often takes on the form of 'brain waste', which basically stands for accepting jobs that are not up to par with one's qualifications.

While existing strategies that specifically focus on furthering the integration of vulnerable population groups onto the labour market (e.g. the National Roma Integration Strategy until 2020) are promising policy documents with solid parameters, their practical implementation has not been realised as yet. Instead, the government prefers policies based on social restrictions and repressions in hope to

¹ United Nations Development Programme, *Správa o životných podmienkach rómskych domácností na Slovensku 2010 [Living Conditions of Roma Households 2010]*, Regional Centre of the UN Development Programme for Europe and the Commonwealth of Independent States, Bratislava, 2012, p. 140

² Ibid.

³ Ibid

“force” members of vulnerable groups to greater activity. This approach seems to neglect serious determinants, including discrimination factors which especially prevent socially excluded Roma from breaking through the glass ceiling and accessing the country’s labour market. The policies of social repression that are based on stereotypical premises (such as “The Roma refuse to work because they have been spoiled by welfare benefits”) pave the way to further deepening their poverty and abusing their social dependence by harsh practices applied by employers as well as self-governments.

Slovakia has enacted relatively solid antidiscrimination legislation but is seriously lagging behind in its practical application. This may be illustrated by the deplorably low number of discrimination complaints that actually made it to the courts of justice: a survey by one non-governmental organization established that Slovak courts had adjudicated only 120 discrimination lawsuits between 2004 and mid-2012.⁴ The same survey revealed that less than one in twenty discrimination victims (4.7%) actually sought legal remedy or asked for legal assistance, while as many as 92% of them did nothing to defend themselves. The effectiveness of the mechanism in protecting the rights of discrimination victims is reduced by cost considerations and the lengthiness of the legal remedy process, as well as the unpredictability of its outcome. Other factors include disintegration of the national equality body, poor inspection activity of labour inspectorates and limited capacities of non-governmental organizations that substitute the role of government and the national equality body in this respect.

When eliminating the obstacles complicating vulnerable population groups’ access to the labour market, it is worth considering the following recommendations:

- Designing **policies based on the principle of affirmative action** that encourage employers to hire members of vulnerable groups through various benefits (**Improving institutional protection against discrimination**, which includes immediate resuscitation of Slovakia’s national equality body,
- **Influencing the public opinion** in order to overcome employers’ lack of trust in vulnerable population groups, **Applying the cross-sectional approach to integration of vulnerable population groups** onto the labour market, especially through promoting affirmative action measures
- Establish **mechanisms allowing for collection of disaggregated data** including nationality and ethnicity enabling evidence based policy planning

⁴ Durbáková, V. – Ivančo, Š. – Liptáková, S. – Holubová, B., *Diskriminácia na Slovensku. Hľadanie bariér v prístupe k účinnej právnej ochrane pred diskrimináciou [Discrimination in Slovakia: Seeking Barriers to Accessing Effective Legal Protection against Discrimination]*, Poradňa pre občianske a ľudské práva, Bratislava 2012

Table of contents

Executive summary	2
1. Introduction	5
1.1 Statistical overview	6
2. The context: labour market and legal framework.....	8
2.1 Outlook on the labour market.....	8
2.2 Legal framework	11
3. Manifestations of racism and structural discrimination in employment....	12
3.1 Perceptions of discrimination in employment	12
3.2 Incidence of discrimination in employment.....	13
3.3 Discrimination in access to employment.....	16
3.4 Discrimination in the workplace	20
4. Tackling the challenges	21
4.1 Public policies	21
4.2 Access to effective remedies	23
4.2.1 Judicial remedies	24
4.2.2 Non-judicial remedies	26
4.3 Civil society initiatives.....	28
4.3.1 NGOs activities	28
4.3.2 Other civil initiatives.....	29
4.3.3 Individual employers' initiatives.....	29
5. Conclusions and recommendations	29
5.1 Political and societal developments related to racism and discrimination...	29
5.2 Conclusions and recommendations.....	33

1. Introduction

The issue of unemployment ranks among the most pressing social problems plaguing Slovakia's population. This problem is even more acute for disadvantaged minorities. Since jobs are becoming increasingly rare, even for the majority of the population, their scarcity for members of disadvantaged minorities is even more pronounced. This situation was caused mainly by sweeping changes in the whole economy after the fall of socialism in 1989. Industries that previously employed people in many towns across Slovakia collapsed since they were not sustainable in a market economy anymore. As a result, Slovakia has suffered from a phenomenon of long-term structural unemployment, which affected uneducated manual labour the most, many of which were Roma. The labour market increasingly tightly locks members of disadvantaged minorities – and of the Romani minority in particular – inside the vicious circle of social exclusion, which inevitably results in the labour market teeming with discrimination.

The special focus of this report is to map out the status of disadvantaged minorities in the country's labour market and to describe the most common ways and forms of discrimination in the field of employment. It analyses the most rampant discriminatory practices and describes available tools aimed at eliminating them. The principal ambition of the report is to identify basic obstacles and challenges to combating discrimination against minorities on the labour market and – being part of a broader European comparative survey – to help shape relevant public policies on the national as well as European level.

The present report is divided into four principal chapters. The first part sums up basic information on the current situation of Slovakia's labour market, featuring available statistical parameters on the situation of vulnerable groups on the labour market. The second chapter specifically focuses on discrimination in the field of employment; although Slovakia does not keep official ethnically sensitive data on discrimination, the report offers at least partial available data that provide the reader with an idea of the degree and patterns of unequal treatment that vulnerable population groups encounter when seeking jobs, as well as when they are performing them. The third section describes available solutions that are either spelled out in strategic policy documents and valid legal rules or practically implemented by concrete authorities relevant state authorities; at the same time, it points out basic deficiencies in the practical mechanism of legal protection. The final part of the report provides an overview of the most recent political and social developments related to racism and discrimination in general, especially for the period between March 2012 and March 2013; and last but not least, it outlines recommendations aimed at eliminating discrimination and enhancing integration of vulnerable population groups on the labour market.

Since there are no sufficient data that would allow for a thorough analysis of discrimination against minorities on the labour market, the report synthesizes available information from several public sources, including official statistics, surveys carried out by non-governmental organizations and academic subjects, international comparative studies, and the practical experience of domestic experts, as well as fieldworkers, who work directly with members of vulnerable population groups. When analysing the status of the Roma on the labour market, the present report extensively draws from a survey jointly implemented in 2010-2011 by the United Nations Development Programme and the World Bank whose findings rather objectively illustrate the situation of the Roma in the field of employment.⁵ The final report from this survey published in 2012 has become the main source of

⁵ United Nations Development Programme, *Správa o životných podmienkach rómskych domácností na Slovensku 2010 [Living Conditions of Roma Households 2010]*, Regional Centre of the UN Development Programme for Europe and the Commonwealth of Independent States, Bratislava 2012.

information for almost all recent analyses of this issue carried out by national as well as European subjects;⁶ it is only understandable that this year's Shadow Report for the Slovak Republic works primarily with data gathered during this research as well. In order to obtain further or additional information from state administration organs, we exercised the right to carry out a written request for information to which government authorities are obliged to respond within the stipulated time limit.⁷

1.1 Statistical overview

The most recent official information on the ethnic make-up of Slovakia's population was produced by the latest population census carried out in 2011. According to its findings, ethnic Hungarians are the country's largest national minority (458 467 Slovak citizens or 8.5% of the total population), followed by the Roma as 105 738 Slovak citizens (2% of the total population) who declared affiliation to this ethnic group.⁸ According to the census, the total number of aliens living in Slovakia is 26 752 (0.5% of the total population).⁹

However, these figures do not precisely reflect Slovakia's ethnic make-up. According to various independent sources, the actual number of the Roma living in Slovakia is estimated at up to 500,000, which is about four times higher than official census data.¹⁰ The number of aliens established by the most recent population census is almost equally off; by the official statistics kept by the Ministry of Interior, the total number of aliens legally residing on Slovakia's territory as of December 2012 was 67 877 (1.25% of the total population).¹¹ Almost two thirds of them (42 858 persons) were citizens of EEC member states, especially the Czech Republic and other neighbouring countries, while the rest of them (25 019 persons) were so-called third-country nationals, most of them hailing from Ukraine and Serbia.

- **Vulnerable population groups**

Although it is well known that the relations between the Slovakia and Hungary are usually tense (due to the status of the Hungarian minority in Slovakia and the Slovak minority in Hungary), this tension is often fed only at the political level. Populist anti-Hungarian hate speech was encouraged in Slovakia mainly by the Slovak National Party (SNS). This party, which is since 2010 not in the Parliament tried to capitalise on highlighting the historical "wrongs" between the two nations. However, the coexistence between Slovaks and ethnic Hungarians living in Slovakia is to a great extent free of problems or conflicts. Therefore, discrimination in employment on the grounds of nationality (Hungarian) is not currently relevant for Slovakia.

⁶ See, for instance, European Roma Right Centre, *Slovakia : Country Profile 2011-2012*, Budapest, 2013.

⁷ Law on Free Access to Information, No. 211/2000, 17 May 2000.

⁸ Juhaščíková, Ivana – Škápik, Pavol – Štukovská, Zuzana, *Základné údaje zo sčítania obyvateľov, domov a bytov 2011. Obyvateľstvo podľa národnosti [Basic Data from the 2011 Population Census: Population by Ethnicity]*, Statistical Office of the Slovak Republic, Bratislava, 2012.

⁹ Statistical Office of the Slovak Republic, <http://portal.statistics.sk/files/tab-8.pdf>, accessed 15th July 2013.

¹⁰ Euractiv, *Stratégia EÚ pre inklúziu Rómov [EU Strategy for Roma Inclusion]*, <http://www.euractiv.sk/regionalny-rozvoj/zoznam-liniek/romska-strategia-000296>, accessed 15th July 2013.

¹¹ Presidium of the Slovak Police Force and the Border Control and Alien Registration Office, *Štatistický prehľad legálnej a nelegálnej migrácie v Slovenskej republike 2012 [Statistical Overview of Legal and Illegal Migration in the Slovak Republic in 2012]*, http://www.minv.sk/swift_data/source/policia/hranicka_a_cudzinecka_policia/rocniky/rok_2012/2012-rocnika-UHCP-SK.pdf, accessed 15th July 2013.

Both in terms of quantity¹² and the report's principal focus, the Roma represent the most relevant minority in Slovakia, which is why the report shall focus primarily on members of this minority¹³. Although there are no official statistics on the general situation of the Roma on the labour market, it is beyond any doubt that employment is the area where discrimination against the Roma takes on the most brutal and outraging forms. This finding can be corroborated by numerous partial surveys and official reports by non-governmental organizations as well as academic subjects, including the already mentioned United Nations Development Programme survey. contained in chapter 3 Manifestation of racism and structural discrimination in employment.

As far as aliens and their status on the labour market are concerned, even non-governmental organizations fail to provide enough information on this category of employees, which partly has to do with the very low total number of aliens in Slovakia. According to available data, most aliens legally residing in Slovakia's territory hail from EU member states (especially neighbouring countries) and are relatively successful on the labour market; most of them are managers of foreign corporations or economic migrants who came to Slovakia primarily for employment purposes. For these reasons, our report shall pay rather marginal attention to migrants.¹⁴

According to various surveys (especially public opinion polls), the category of disadvantaged job seekers also includes women, persons older than 55, and persons with disabilities¹⁵; however, due to space reasons as well as its ambition to explore the issue from the viewpoint of racism, this report shall not pay specific attention to these categories of job seekers.

1.2 Definitions

According to the Law on Residence of Aliens, an **alien** is any person who does not have Slovak citizenship¹⁶. This law recognizes two groups of aliens: aliens which are citizens of third countries and those who are citizens of the EEC countries (including Switzerland). Stateless persons are also included in the category of third country nationals.

¹² It is estimated that the Slovak Republic ranks second on the list of all EU member states in terms of the share of the Roma on the country's total population (9.7%). For further details, please see <http://www.euractiv.sk/regionalny-rozvoj/zoznam-liniek/romska-strategia-000296>; accessed 10th July 2013.

¹³ Given the results of the census, Slovak population consists of those nationalities: Slovak (80,7%), Hungarian (8,5%), Roma (2,0%), : Ruthenian (0,6%), Ukrainian (0,1%), Czech (0,6%), German (0,1%), Polish (0,1%), Croatian (0,0%), Serbian (0,0%), Russian (0,0%), Jewish (0,0%), Moravian (0,1%), Bulgarian (0,0%).

0,0% means statistically uncountable number

See please : Juhaščíková, Ivana – Škápik, Pavol – Štukovská, Zuzana, *Základné údaje zo sčítania obyvateľov, domov a bytov 2011. Obyvateľstvo podľa národnosti [Basic Data from the 2011 Population Census: Population by Ethnicity]*, Statistical Office of the Slovak Republic, Bratislava, 2012, p.10

¹⁴ Vašečka, M., *Postoje verejnosti k cudzincom a zahraničnej migrácii v Slovenskej republike [Public's Attitudes to Aliens and Migration in the Slovak Republic]*, Medzinárodná organizácia pre migráciu, Bratislava, 2009

¹⁵ For more information, please see, f.e.:

- Holubová, B., *Trh práce a sociálna inklúzia žien [Labour Market and Social Inclusion of Women]*, Inštitút rodovej rovnosti, Bratislava, 2011
- Repková, K. and Repková, D., *Zdravotné postihnutie - vybrané fakty, čísla a výskumné zistenia v medzinárodnom a národnom kontexte, [Disability - facts, figures and research findings in international and national context]*, World Health Organisation – CountryOffice in Slovakia, Bratislava, 2012
- Vagač, L., *Trh práce - rizikové skupiny. Teória, prax, legislatíva [Labour market - vulnerable groups, Theory, practice and legislation]*, Bratislava, 2011

¹⁶ Paragraph 2, Law on Residence of Aliens, No. 404/2011 , 13 March 2013

In this report, the term **migrant** is used interchangeably with the term alien. The term migrant, which is used in the report, includes documented immigrants, refugees, asylum seekers and persons granted subsidiary protection. The term migrant has no legal definition in Slovakia.

The term **national or ethnic minority** is not legally defined in Slovakia. Although Slovakia officially recognizes 13 national minorities in its territory, there are no legally set conditions for recognition of national minority groups. In accordance with the Law on the use of minority languages, members of national minorities have the right to use their language as the official language in municipalities with at least 20% of citizens from a given national minority.¹⁷ Declaration of one's nationality is a voluntary decision of each citizen, and in accordance with the Constitution, membership of any national minority or ethnic group must not be to anyone's detriment.¹⁸

Roma ethnic minority in the context of this report is understood as an outer characteristic including groups of population that may be identified as Roma, based on their external characteristics. Therefore it does not include only those Roma who subscribed themselves to the Roma nationality in the census. Wherever there is a reference to the term "**majority population**" it means the "ethnic Slovaks" - persons living in Slovakia, who do not belong to any national or ethnic minority group.

2. The context: labour market and legal framework

2.1 Outlook on the labour market

According to official statistics, supplied by the Statistical Office of the Slovak Republic, almost three fifths (59.2%) of Slovakia's overall population was economically active as of December 2012;¹⁹ the overall level of registered employment hovered at 50.9%.²⁰ In the long term, unemployment is one of the country's most vividly discussed social problems as it plagues members of minorities as well as the majority of the population; according to statistics kept by the Central Office of Labour, Social Affairs and Family, the overall unemployment rate reached 14.44% in December 2012.²¹

Unfortunately, the abovementioned official statistics do not reflect reality as the actual unemployment rate is substantially higher. The point is that unemployment data kept by the Central Office of Labour, Social Affairs and Family only take into account persons who have officially registered as jobless. In other words, they do not include those jobless who have failed to report themselves as such (so called voluntarily unemployed) or have been eliminated from the statistics based on lawful reasons.

¹⁷ Law on the Use of Minority Languages, No.184/1999, 10 June 1999

¹⁸ Article 34, Constitution of Slovak Republic, No.460/1992, 1 October 1992

¹⁹ Statistical Office of the Slovak Republic; <http://www.statistics.sk/pls/elisw/metainfo.explorer>, accessed 15th July 2013 (the data are accessible upon logging in with the Slovstat system via the official website of the Statistical Office of the Slovak Republic).

²⁰ *Ibid.*

²¹ Central Office of Labour, Social Affairs and Family, *Monthly Unemployment Statistics in Slovakia*; available at: http://www.upsvar.sk/statistiky/nezamestnanost-mesacne-statistiky/2012.html?page_id=151827, accessed 5th August 2013.

2.1.1 Roma and the labour market situation

Unemployment in some regions of Slovakia substantially exceeds the national average; in certain districts, the official unemployment rate hovers above 30% in the long term²². The alarmingly high long-term unemployment in these localities is closely related to economic changes that followed the collapse of the command economy in 1989; most of them led to the downfall of state-run enterprises and entire industries that used to employ local workforce. Furthermore, most of these regions lack the necessary infrastructure (e.g. highways) that would help attract domestic or foreign investors and support employment. It is these regions that are particularly densely populated by socially excluded Romani communities²³; consequently, the regions' economic under-development adversely affects their living standard .

This state of affairs has been documented by the extensive field research carried out jointly by the UNDP and World Bank (hereinafter referred to as "UNDP Survey")²⁴, that examined three types of Romani households (i.e. segregated, separated and scattered²⁵), comparing them to majority households that inhabit the same areas.

- **Activity, employment and unemployment rates**

In compliance with the method of selective workforce examination, the survey identified 57% Roma and 61% members of the majority population (non Romani population) in productive age (i.e. between 15 and 64) from geographically close areas. While the share of gainfully employed persons in the former sample (Roma) was 15.5%, in the non Romani sample it was 55.1%; the level of unemployment was 73.2% among the Roma but only 10% among the majority population (non-Roma).²⁶

- **Type of economic activity and quality of work**

Even if Romani job seekers (especially those inhabiting socially excluded settlements) manage to find jobs, it is often on the secondary labour market whose principal features include temporariness of available jobs and poorer legal protection of employees. This trend had been pointed out a long time ago by numerous domestic experts. *"Even if the Roma do participate on the labour market, they are often employed on the secondary labour market that is characterized by instability of job opportunities (i.e. threat of unemployment) as well as worse labour conditions, lower wages, etc."*²⁷

²² Ibid.

See, for example, statistic « December 2012 », table 1 : Rimavská Sobota (35,59%), Revúca (32,55%), Kežmarok (30,66%)

²³ Juhaščíková, Ivana – Škápik, Pavol – Štukovská, Zuzana, *Základné údaje zo sčítania obyvateľov, domov a bytov 2011. Obyvateľstvo podľa národnosti*[Basic Data from the 2011 Population Census: Population by Ethnicity], Statistical Office of the Slovak Republic, Bratislava, 2012

²⁴ United Nations Development Programme, *Správa o životných podmienkach rómskych domácností na Slovensku 2010* [Living Conditions of Roma Households 2010], Regional Centre of the UN Development Programme for Europe and the Commonwealth of Independent States, Bratislava 2012

²⁵ One should note that the survey did not include the households of Roma who live fully integrated or have been assimilated. The category rather reflects the distance of examined households from the nearest majority municipality.

²⁶ United Nations Development Programme, *Správa o životných podmienkach rómskych domácností na Slovensku 2010* [Living Conditions of Roma Households 2010], Regional Centre of the UN Development Programme for Europe and the Commonwealth of Independent States, Bratislava, 2012, p. 140.

²⁷ Jurásková, M., *Diskriminácia Rómov na trhu práce* [Discrimination against the Roma on the Labour Market], Institute for Public Affairs, Bratislava, 2004; available at: http://www.euractiv.sk/rovnost-sanci/analyza/diskriminacia-romov-na-trhu-prace_ek5ho, accessed 12th August 2013.

The cited UNDP survey corroborated this *status quo*: “Compared to [the] general population from geographically close areas ... the other type of gainful employment (i.e. temporary and unstable jobs) was more common among the Roma, this despite the substantially lower total share of gainfully employed persons in the sample; in the Romani sample, their share was 1.8% while in the general sample it was only 0.5%. So, the already disproportionately smaller sample of Romani job holders was further reduced by sub-standard types of employment. Many of these job opportunities lack even the basic pillars of labour and social protection, for instance random temporary jobs, seasonal jobs, underemployment, or forced trades.”²⁸

- **Occupation level**

The UNDP survey also confirmed that compared to the majority, Romani job seekers stand a much greater chance of ending up in unskilled job positions, whereas those skilled ones often remain a chimera to them. Only 7% of examined majority respondents held unskilled manual jobs while among the examined Roma their share was 50.6%. All in all, 42.2% people from the former sample but as many as 92% people from the latter sample described themselves as blue-collar workers (both skilled and unskilled).

On the other hand, only two per cent of employed Roma held higher qualification job positions, such as works managers in service and commerce, while in the general population sample from geographically close areas, their share exceeded 40%.²⁹

2.1.2 Migrants and the labour market

Migrants from EU/EEC member states are free to apply for jobs and do business in Slovakia under equal conditions as Slovak citizens by virtue of the EU’s four fundamental freedoms. As far as so-called third-country nationals are concerned however, they are required to obtain either a work permit or a blue card. Work permits are granted for the period of the labour contract, which must not exceed two years, regardless of the labour qualifications of third-country nationals. At the same time, the work permit is the prerequisite to applying for a temporary residence permit for the purpose of gainful employment. Blue cards are issued for the period of the labour contract, which must not exceed three years; they are designed for those third-country nationals who are to be employed at job positions that require high qualifications.³⁰ The blue card entitles third-country nationals to temporary residence, which means that its holders are not required to obtain a specific work permit.

On the other hand, the Law on Employment Services spells out several exceptions when aliens can be allowed to work in the Slovak Republic even without the necessity to obtain a work permit or a blue card.³¹

As of March 1, 2012, Slovakia employed a total of 21 358 aliens; a vast majority of them (16 176) hailed from other EEC member states or Switzerland. Most gainfully employed migrants alien from this category came from Romania and the Czech Republic.³²

²⁸ United Nations Development Programme, *Správa o životných podmienkach rómskych domácností na Slovensku 2010* [Living Conditions of Roma Households 2010], op.cit., p. 120.

²⁹ *Ibid.* p. 148

³⁰ Central Office of Labour, Social Affairs and Family, http://www.upsvar.sk/sluzby-zamestnanosti/archiv.html?page_id=298188, accessed 12th August 2013.

³¹ For example. person who is Slovak expatriate. See more: Article 22, Paragraph 7, Law on Employment Services. No. 5/2004, 4 December 2004

The second category of aliens who were employed in the Slovak Republic in 2012 comprised third-country nationals. A total of 3,346 of these people worked in Slovakia based on work permits.³³

There are no official statistics on unemployment of aliens who reside on Slovakia's territory as only Slovak citizens are allowed to enter the official unemployment register. Besides, temporary residence permits issued to citizens of other EU/EEC member states are often conditioned by opening job positions and/or issuing work permits, unless of course the applicants are motivated by other than economic reasons such as merging families, studying, etc.

2.2 Legal framework

- ***Law No. 365/2004 on Equal Treatment in Certain Areas and on Protection against Discrimination that Alters and Amends Certain Laws (Antidiscrimination Act)***³⁴

Effective as of July 1 2004, Slovakia began to enforce Law No. 365/2004 on Equal Treatment in Certain Areas and on Protection against Discrimination that Alters and Amends Certain Laws, also known as the Antidiscrimination Act, which is the key legislative tool designed to protect people against discriminatory action, including discrimination in employment. At the same time, the law transposed several EU directives into Slovakia's legal order, including the Directive establishing a general framework for equal treatment in employment and occupation (2000/78/EC).³⁵

The law defines and embodies the principles and definitions of equality, direct and indirect discrimination, sexual harassment, wrongful sanction, instruction to discrimination, and incitement to discrimination.

According to the law, the illegal grounds for differential treatment include sex, religious conviction or belief, race, affiliation to nationality or ethnic group, disability, age, sexual orientation, marital and family status, complexion, language, political or other preferences, national or social background, property, ancestry or other status.³⁶

The relevant areas in which violations of the equality principle shall, according to this law, be interpreted as discrimination include access to employment, social security, education, healthcare as well as goods and services.

For the purpose of this law, the judicial organ entitled to establish discriminatory action and decide on the means of remedy is a civil court of justice. The means of legal remedy anchored in the law is civil

³² Central Office of Labour, Social Affairs and Family, *Štatistiky zamestnávania cudzincov* [Alien Employment Statistics]; available at: http://www.upsvar.sk/statistiky/zamestnavanie-cudzincov-statistiky/zamestnavanie-cudzincov-na-uzemi-slovenskej-republiky-za-rok-2012.html?page_id=154142, accessed 12th August, 2013.

³³ *Ibid.*

³⁴ Law on Equal Treatment in Certain Areas and on Protection against Discrimination that Alters and Amends Certain Laws (Antidiscrimination Act), No. 365/2004, 20 May 2004

³⁵ On top of said directive, it was also Directive on the implementation of the principle of equal treatment for men and women in occupational social security schemes (86/378/EEC), Directive on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (76/207/EEC) and Directive implementing the principle of equal treatment between men and women in the access to and supply of goods and services (2004/113/EC).

³⁶ Paragraph 2. Law on Equal Treatment in Certain Areas and on Protection against Discrimination that Alters and Amends Certain Laws (Antidiscrimination Act), No. 365/2004, 20 May 2004

action, which may be applied to demand an end to the discriminatory practices and an elimination of their consequences, but also financial indemnification for the loss incurred. A very progressive feature of the law is the so-called reverse burden of proof, which requires the defendant to prove he has not discriminated as opposed to the complainant having to prove he has been discriminated against.

- **Law No. 311/2001 (Labour Code)**

A general legal standard that regulates the field of labour relations is Law No. 311/2001³⁷, also known as the Labour Code. While it does not primarily deal with discrimination, the law's opening provisions spell out the obligation to observe the principle of equality. The law explicitly stipulates that all natural persons shall enjoy the following:

- The right to work and free choice of profession;
- The right to just and satisfactory labour conditions;
- The right to protection against malicious dismissal.
-

According to the Labour Code, all these rights shall be exercised in compliance with the principle of equal treatment as anchored in the Antidiscrimination Act. At the same time, the law puts forth a broader scope of reasons why these rights of natural persons should be construed as inalienable.

The Labour Code works as *lex generalis* with respect to the Antidiscrimination Act. The supervisory body entrusted with enforcing its provisions is the Labour Inspectorate, which means that employees who believe they are being discriminated against may also turn to this organ. Unlike the court of justice, though, the Labour Inspectorate is not authorized to decide on legal remedies with respect to the aggrieved party but only on the sanctions with respect to the employer.

3. Manifestations of racism and structural discrimination in employment

3.1 Perceptions of discrimination in employment

The political debate, as well as the general public discourse that takes place primarily within the virtual environment, suggests that the Roma are widely perceived as people who refuse to work because they content themselves with the "generous social security system".³⁸ These perceptions are rooted in the factually erroneous assumption that the Roma refuse to work because they have been spoiled by welfare benefits. *"When you speak to villagers from East Slovakia about their neighbours from Romani settlements ... they perceive the Roma as a non-productive population group that does nothing but abuses the welfare system. At the same time, they view [the Roma] as a population group that is unemployable because they are illiterate, they cannot do anything, they are irresponsible, impossible to educate, and lacking any work habits and aspirations whatsoever."*³⁹

³⁷ Labour Code, No. 311/2001, 2 July 2001

³⁸ For example, see blog of former member of Parliament, Štefan Kužma, : Kužma, Š., „*Oplatí sa vôbec obyvateľom osád pracovať?*“ [Is it worth all the inhabitants of settlements to work?], <http://stefankuzma.blog.sme.sk/c/261495/Oplati-sa-vobec-obyvateľom-osad-pracovat.html>, accessed 27th October 2013

³⁹ Kobes, T., "Limity a determinanty zamestnanosti Romů" ['Limits and Determinants of Romani Employment'] in Mušíňka, Alexander – Benč, Vladimír (eds.) *Pokřizová obnova SR: Zvyšovanie zamestnanosti a inklúzia Rómov* [Reconstruction of Slovakia in the Wake of the Crisis: Increasing Employment and Including the Roma], proceedings from the National Convent

The myth about “welfare-pampering” as the basic reason for Romani unemployment has been disproved by the already cited UNDP survey whose findings clearly indicate that the Roma from socially excluded communities fail to comply with eligibility conditions to collect several benefits from the system of state social assistance. In fact, the average per capita social income of Roma from segregated settlements is €88; for the sake of comparison, the average per capita social income of majority recipients from the same geographic area is €193.⁴⁰

It is very important to note this glaring discrepancy between the actual standard of living in marginalised Romani communities on the one hand, and the perception of it by the rest of the population and the country’s political leaders on the other. In a situation where the general public in Slovakia almost unreservedly agrees that the Roma are a “parasitic population group”⁴¹ whose social integration can only be achieved by restricting their basic social minimum, it would be rather naive to expect the government to perceive and tackle social stagnation of the Roma in the context of discrimination. Regardless of administration at helm, this attitude fundamentally affects most government proposals to tackle Romani unemployment by welfare restriction, as opposed to eliminating discrimination. The most frequent argument in favour of this policy is that cutting back on welfare disbursed to the Roma will force them to look for jobs. This philosophy seems to overlook not only potential discrimination on the labour market but also other determinants that form obstacles to employing the Roma.

The public opinion is almost equally negatively set against aliens and their status on Slovakia’s labour market. In a survey carried out by Open Society Foundation, almost half of all respondents (48.2%) disagreed with the following assertion: “*The work environment is positively affected by members of staff hailing from different cultures.*”⁴² Generally speaking, most Slovaks seem to believe that aliens represent a threat to Slovakia’s labour market as they are stereotypically seen to steal jobs from the local population.⁴³

3.2 Incidence of discrimination in employment

- ***Labour market as the hotbed of discrimination***

Although the Slovak Republic does not keep official data on the incidence of discrimination in any area of public life, it is beyond any doubt that the country’s labour market is the one area where discrimination is commonly witnessed by most Slovak citizens, including members of national and ethnic minorities. In a 2010 survey carried out by the Institute for Public Affairs (hereinafter referred to as “the IPA”), four in five respondents (79%) said they most often encountered discrimination on the labour market.⁴⁴

on the European Union, a conference organized in Prešov by the Slovak Foreign Policy Association, the Prešov University and the Slovak Government’s Office in 2011, p. 91.

⁴⁰ United Nations Development Programme, *Správa o životných podmienkach rómskych domácností na Slovensku 2010 [Living Conditions of Roma Households 2010]*, op.cit., p. 176.

⁴¹ SME daily, “Cigánski paraziti z Kotlebovho letáku súdu neprekážajú” [‘Gypsy parasites from Kotleba’s leaflet not a problem for the court’], Prušová, V. www.sme.sk, 13 May 2013, accessed 27th October 2013

⁴² Open Society Foundation, *Verejná mienka v oblasti pravicového extrémizmu [Public Opinion on the Right-Wing Extremism]*, a survey report, Nadácia otvorenej spoločnosti, Bratislava, 2012, p. 73.

⁴³ Vašečka, M., *Postoje verejnosti k cudzincom a zahraničnej migrácii v Slovenskej republike [Public’s Attitudes to Aliens and Migration in the Slovak Republic]*, Medzinárodná organizácia pre migráciu, Bratislava, 2009, pp. 39-41.

⁴⁴ Gyarfášová, O. – Sekulová, M., *Diskriminácia a viacsobná diskriminácia. Pohľady verejnosti na diskrimináciu, rovnosť a rovné zaobchádzanie [Discrimination and Multiple Discrimination: Public Perception of Discrimination, Equality and Equal Treatment]*, Institute for Public Affairs, Bratislava, 2010, p. 21.

This finding may be corroborated by the results of monitoring court decisions on discrimination that was conducted by the Advisory Bureau for Civil and Human Rights, a non-governmental organization that specializes in providing legal protection to discrimination victims. A vast majority of examined lawsuits (26) had to do with violations of the principle of equal treatment at the workplace; in most of them, complainants objected to invalidity of dismissals by their employers. Five verdicts concerned discrimination in access to employment.⁴⁵

- **Grounds of discrimination**

The list of the most frequent grounds of discrimination are age, gender, and ethnic origin.

According to the most recent available edition of the Eurobarometer, a pan-European comparative public opinion poll, the most frequent reason for discrimination on Slovakia's labour market is age related, specifically in relation to those over 55 years of age (cited by 62% of respondents), followed by ethnic origin (cited by 44% of respondents).⁴⁶

Although a relatively significant part of the poll sample identified ethnic and racial origin to be one of the most frequent reasons for discrimination, one should note that there are nuances to this perception depending on the concrete ethnic or racial minority in question. This conclusion has been seconded by several domestic surveys: *"The perception of groups threatened by discrimination is hierarchic as not all population groups and categories of individuals are perceived as disadvantaged; stereotypes and prejudices with respect to certain population groups are viewed as legitimate."*⁴⁷ This may be corroborated by another finding of Eurobarometer 2012: while three in four EU citizens (75%) believe that the Romani minority is threatened by discrimination, this view was shared by only four in nine Slovak respondents (44%) whereas five in nine of them (56%) disagreed with the assertion.⁴⁸

The already cited analysis of court decisions carried out by the Advisory Bureau for Civil and Human Rights found out that the most frequent reason for discrimination that was taken to court was discrimination victims' affiliation to ethnic group (15 lawsuits).⁴⁹

The most vulnerable population group in this respect are the Roma. This conclusion is supported by empirical surveys carried out by non-governmental organisations, as well as subjective perception of discrimination on the part of the Roma. Over two in five Romani respondents (41%) who took part in the EU-MIDIS survey carried out by the Fundamental Rights Agency, said they had encountered discrimination during the past 12 months; the average number of discrimination incidents witnessed over that period by each respondent was 11. The areas in which discrimination against Slovak Roma

⁴⁵ Durbáková, V. – Ivančo, Š. – Liptáková, S. – Holubová, B., *Diskriminácia na Slovensku. Hľadanie bariér v prístupe k účinnej právnej ochrane pred diskrimináciou* [Discrimination in Slovakia: Seeking Barriers to Accessing Effective Legal Protection against Discrimination], Poradňa pre občianske a ľudské práva, Bratislava 2012, p. 72.

⁴⁶ The respondents were asked the following question: "Imagine that two equally qualified candidates apply for the same job position; what factors might put one of them at a disadvantage?" European Commission, Eurobarometer, Discrimination in EU 2012, Results for Slovakia, http://ec.europa.eu/public_opinion/archives/ebs/ebs_393_fact_sk_en.pdf, accessed 10th August 2013.

⁴⁷ Gyarfášová, O. – Sekulová, M., *Diskriminácia a viacnásobná diskriminácia. Pohľady verejnosti na diskrimináciu, rovnosť a rovné zaobchádzanie* [Discrimination and Multiple Discrimination: Public Perception of Discrimination, Equality and Equal Treatment], op. cit, p. 18.

⁴⁸ European Commission, Eurobarometer, Discrimination in EU 2012, Results for Slovakia; http://ec.europa.eu/public_opinion/archives/ebs/ebs_393_fact_sk_en.pdf, accessed 10th August 2013.

⁴⁹ Durbáková, V. – Ivančo, Š. – Liptáková, S. – Holubová, B., *Diskriminácia na Slovensku. Hľadanie bariér v prístupe k účinnej právnej ochrane pred diskrimináciou* [Discrimination in Slovakia: Seeking Barriers to Accessing Effective Legal Protection against Discrimination], op. cit, pp. 71-83.

was the most frequent included private enterprise (i.e. access to goods and services) and employment.⁵⁰

- **Forms of unequal treatment**

The most prevalent form of unequal treatment is direct discrimination. We may speak of this form, for instance, when employers exclude members of the vulnerable population group from the further process of selecting candidates for the job position, either directly in job advertisements or during job interviews.

This can be corroborated by the analysis of court decisions carried out by the Advisory Bureau for Civil and Human Rights, which suggested that most lawsuits (32) concerned direct discrimination.⁵¹

Direct discrimination against Romani job seekers often takes place based on their characteristic surnames or during the first personal contact. There are even examples of job advertisements that explicitly feature a note of “Roma not wanted!”⁵²

Another frequent form is the so-called ‘instruction to discrimination’⁵³, which is when employees who are responsible for conducting job interviews are instructed to exclude Romani job applicants from the group of potential candidates (for further details, please see Chapter 3.3.1).

In 2011, the Slovak National Human Rights Centre (hereinafter referred to as the SNHRC) conducted an extensive survey of job advertisements and their compliance with valid antidiscrimination legislation (the findings were published in 2012). The one requirement that frequently appeared in job advertisements was the requirement to supply a photograph, which can be said to constitute direct discrimination. *“A photograph may discriminate against job applicants not only based on age but also on grounds of racial/ethnic origin or disability. The requirement to supply a photograph is even featured in ads that advertise manual labour positions.”*⁵⁴

⁵⁰ Fundamental Rights Agency, *EU-MIDIS 2009*; http://fra.europa.eu/sites/default/files/fra_uploads/413-EU-MIDIS_ROMA_SK.pdf, accessed 10th August 2013.

⁵¹ Durbáková, V. – Ivančo, Š. – Liptáková, S. – Holubová, B., *Diskriminácia na Slovensku. Hľadanie bariér v prístupe k účinnej právnej ochrane pred diskrimináciou [Discrimination in Slovakia: Seeking Barriers to Accessing Effective Legal Protection against Discrimination]*, op. cit., 71-83.

⁵² Such a case (along with evidence of the advertisement in question) was reported to the People against Racism civic association in 2010 by one legal assistance seeker. The advertisement had been published on *profesia.sk*, the leading portal of job opportunities, whose administrator deleted it upon warning.

⁵³ Article 2a, Paragraph 6, Law on Equal Treatment in Certain Areas and on Protection against Discrimination that Alters and Amends Certain Laws, No. 365/2004, also known as Antidiscrimination Act, 20 May 2004.

⁵⁴ Slovak National Human Rights Centre, *Správa o dodržiavaní ľudských práv vrátane zásady rovnakého zaobchádzania a práv dieťaťa v Slovenskej republike za rok 2011* [Report on the Protection and Implementation of Human Rights Including the Equal Treatment Principle and the Rights of the Child in the Slovak Republic in 2011], Slovenské národné stredisko pre ľudské práva, Bratislava, 2012, p. 244.

3.3 Discrimination in access to employment

3.3.1 Discrimination in employment with respect to the Roma

- ***Unequal treatment at the stage of interviewing equally qualified job seekers***

Although discriminatory tendencies on the part of potential employers are not the sole reason for the poor participation of the Roma on the country's labour market, they undoubtedly play an important role. This conclusion can be illustrated in the table below, which compares the employment rate of Romani and majority job seekers who hail from the same region and have attained the same level of education.⁵⁵ While these data hardly provide a direct evidence of discrimination, they certainly invite the question of why there are such marked differences between equally qualified and equally educated job seekers when it comes to succeeding on the labour market. One plausible answer was provided by the final report from the UNDP survey: *"Empirical data thus speak in favour of the hypothesis that even though job opportunities of different levels of qualification are available for particular categories of [job seekers] within the region, they are more readily accessible by members of the majority population rather than job applicants of Romani origin."*⁵⁶

	<i>Sub-primary education</i>	<i>Primary education</i>	<i>Secondary vocational training</i>	<i>Secondary and higher education</i>
Roma	5.6%	9.8%	26.3%	37.5%
Majority	12.6 %	57.5%	65.4%	81.6%

The existence of discriminatory practices with respect to qualified Roma was practically examined in 2012 by popular Slovak journalist, Karol Sudor. His investigative article for the *Sme* daily featured testimonies of several Roma who personally experienced preference of unqualified non-Romani job applicants to qualified Romani ones. They seemed to share the same experience of potential employers losing interest in hiring them as soon as they learned of their ethnicity, either based on their characteristic surname by which they introduced themselves or from their complexion and other physical features that were obvious during a job interview. Sudor verified their experience through a series of practical tests. *"We phoned a Bratislava-based company that had advertised a temporary position of a cleaning lady, identifying the job applicant by the false name of Erika Bihárová."*⁵⁷ *The lady on the other side reacted with almost a sign of pity in her voice: 'Unfortunately, I already have another applicant who is supposed to return to me. If she fails to do so by tomorrow, I will let you know.'* *Ten minutes later, we answered the ad from a different telephone number, this time using the false surname of Dana Salajová. The same lady said that the job was still open and asked when was the new job applicant able to take a look at her new workplace and commence her work. She never called back the fictitious Romani applicant."*⁵⁸

⁵⁵ The data featured in the table stand for the number of employed based on respondents' self-categorization. All respondents who ran a business or a trade, held full-time or part-time jobs or performed other type of gainful activity were allowed to call themselves gainfully employed.

⁵⁶ United Nations Development Programme, *Správa o životných podmienkach rómskych domácností na Slovensku 2010 [Living Conditions of Roma Households 2010]*, op. cit., pp. 125-126.

⁵⁷ Bihárová is one the most common roma surnames in Slovakia

⁵⁸ SME daily, "Si Róm? Aha, tak to je iná vec" ['Are You Roma? Now That's a Different Matter'], Sudor, K., www.sme.sk, 26 October 2012, accessed 9th August 2013.

Countless Roma have conveyed identical experience to non-governmental organisations that specialize in combating discrimination.⁵⁹ If we were to make a general conclusion based on this experience, we would probably say that many Romani job applicants – even those who demonstrate relevant qualifications and comply with all formal requirements for the advertised job position – are eliminated from the circle of potential candidates as soon as their ethnic origin becomes obvious based on their characteristic surname or at the moment of personal contact.

- ***Unequal treatment at the stage of concluding labour contracts***

Another way of discriminating against Romani job seekers on the labour market is offering them less advantageous types of labour contracts that prevail among employed Roma. The table below provides an overview of the share of Romani and majority job applicants broken down by the type of labour contract they concluded with the employer.⁶⁰

	Indefinite period labour contracts	Labour contracts up to six months	Labour contracts exceeding six months	Contracts for work	Occasional labour	Apprentice work, training	Work for provision, without contract
Roma	52.9%	12%	9.6%	12.7%	4.1%	6.6%	2.0%
Majority	89.9%	3.8%	1.9%	2.2%	0.3%	1.6%	0.3%

- ***Characteristic surnames and first personal contact as obstacles to hiring Roma***

While it is difficult to prove, discrimination against the Roma in the field of employment essentially does not take on very complicated or sophisticated forms. Since most Roma can be easily distinguished from the majority and many of them have ‘characteristic surnames’, employers do not need to invent elaborate indirect discrimination tricks to eliminate them from the process of candidate selection. Whenever they have to choose between job applicants with identical qualifications, all it takes is to prefer the non-Romani job candidate as there are always relatively fake reasons at hand to justify their choice. Personal experience of many Roma who have turned to Slovak non-governmental organizations suggests that their access to employment is barred from the very beginning, as soon as their Romani origin becomes obvious. Most of them do not even make it to the stage of personal interviews because of their characteristic surnames; the rest of them get eliminated immediately afterwards due to their complexion and facial features.

But there have also been employees or agency representatives in charge of selection procedures who confirmed “off the record” that company managers had explicitly instructed them not to hire any Roma.

In June 2012 certain Slovak media uncovered information about a Romani couple who answered a job advertisement placed by an employment agency that had been hired to recruit new employees for a certain company. During a telephone conversation, the agency representative directly asked them whether they were Roma. “They asked me if I was of Romani origin. I said that I was. At that second they lost interest in me as a potential employee, saying that the company explicitly did not wish to employ Roma,” recalls Júlia. Her husband Roman refused to believe something like that was possible

⁵⁹ Please see, for instance, www.diskriminacia.sk, the official website of the Citizen, Democracy and Accountability non-governmental organization, section Race and Ethnicity – Cases.

⁶⁰ United Nations Development Programme, *Správa o životných podmienkach rómskych domácností na Slovensku 2010 [Living Conditions of Roma Households 2010]*, op. cit., p. 149.

and phoned the agency himself. *“They finally asked me whether I was Roma and after I replied that I was and asked them if it was a problem, they said it was,”* confirmed Roman who had taped the entire conversation with agency representatives.⁶¹

3.3.2 Incidence of discrimination against migrants in the field of employment

As pointed out earlier, Slovakia does not keep any official statistics on migrants that would at least roughly illustrate their employment pattern in Slovakia.⁶² Partial information is gathered by various third sector organisations that identify migrants’ most frequent and most pressing problems through qualitative surveys, such as structured in-depth interviews. These surveys basically indicate that the overall share of gainfully employed aliens is rather low in Slovakia. Since its introduction in 2011, only 30 aliens have applied for the blue card and only nine of them have actually obtained it.⁶³

- **Administratively challenging process**

This state of affairs may have to do with the fact that Slovakia is not as attractive for economic migrants⁶⁴, and the lengthy and bureaucratic process of complying with required conditions to obtain work permits by third-country nationals is also an issue of concern. According to the Human Rights League (hereinafter referred to as ‘HRL’), the conditions to obtain the blue card are rather discouraging: *“The factors that contribute to the limited use of blue cards may include employers’ general discouragement by bureaucracy that accompanies the procedure of granting temporary residence permits; long time periods between the initial contact with potential employees and granting residence permits; and limited awareness about the blue card mechanism among employers. Also, the requirement that the applicant’s average monthly wage must be at least 1.5-multiple of the average monthly wage in the given profession can be difficult to achieve.”*⁶⁵ HRL representatives explained that the average wage in most coveted professions was distorted by high bonuses for top managers, while regular employees earn much less than the average wage; consequently, it is difficult to comply with the criterion of 1.5 times greater than the average wage.⁶⁶ This state of affairs was illustrated by several respondents in a research project carried out by the HRL: *“Blue cards for highly-qualified migrants are utopia. The alien who wants to apply for the blue card must earn almost twice as much as a Slovak in the same job position. That is unthinkable.”*⁶⁷ Another respondent with university education, who holds three diplomas in the field of financial administration and several professional

⁶¹ Nový čas, “Júlia a Roman v šoku: Odmietli nás zamestnať, lebo sme Rómovia!” [‘Júlia and Roman in Shock: They Refused to Hire Us Because We’re Roma!’]; available at www.vas.cas.sk, 26 June 2012, accessed 9th August 2013.

⁶² Chudžíková, A., “Dostupnosť štatistických dát o migrantoch na Slovensku ako podmienka vyhodnocovania politik” [‘Availability of Statistical Data on Migrants in Slovakia as the Condition to Policy Evaluation’] in Vašečka Michal (ed.), *Indikátory integrácie pre 21. storočie. Vieme ako merať úspešnosť integrácie migrantov?* [Integration Indicators for the 21st Century: Do We Know How to Measure the Success of Migrant Integration?], Inštitút pre dobre spravovanú spoločnosť, Bratislava, 2011, pp. 22-36.

⁶³ Številová, Z. “The Policy of Labour Migration in Slovakia – Lights in the Darkness”, Human Rights League; available at: <http://migrationtothecentre.migraceonline.cz>, accessed 10th August 2013.

⁶⁴ This assessment is further supported by the fact that most aliens in Slovakia resides mainly in cities located in regions which are economically better off than the rest of Slovakia and have the lowest levels of unemployment. In other regions, which are weaker in terms of economic development, the number of aliens is only a few hundred.

Please see, for example : Center for Research of Ethnicity and Culture, *Integrácia migrantov na lokálnej úrovni No.2* [‘Integration of migrants at the local level’], Centrum pre výskum etnicity a kultúry, Bratislava 2012

⁶⁵ ⁶⁵ Številová, Z. “The Policy of Labour Migration in Slovakia – Lights in the Darkness”, Human Rights League; available at: <http://migrationtothecentre.migraceonline.cz>, accessed 10th August 2013

⁶⁶ Article 38, z Law on Residence of Aliens, No. 404/2011, 13 March 2013

⁶⁷ Human Rights League, “Slovakia Should Stop Seeing Migration as a Problem”; available at: <http://migrationtothecentre.migraceonline.cz>, accessed 10th August 2013.

certificates, including the CFA, described his personal experience with obtaining the blue card, as follows: *“It was not easy. I tried to obtain the blue card as a highly-qualified expert but there were too many related obstacles. The entire process takes extremely long and no company is going to wait longer than two months for me.”*⁶⁸

- **Non-availability of information in foreign languages**

Another plausible explanation for aliens’ continuously low interest in seeking jobs in Slovakia, as well as their unequal status on the labour market, is the lack of necessary information available in foreign languages. *“Generally, it is very difficult to access information on labour migration and its administration,”* argued Zuzana Bargerová from the HRL. *“As the information is cryptic and available only in Slovak, it is almost impossible for migrants to find guidelines for employment of aliens on official websites of relevant institutions.”*⁶⁹ This view was seconded by the Centre for the Research of Ethnicity and Culture: *“Another traditional argument used by government authorities is the lack of powers or non-existent demand for their services on the part of aliens. But the fact is that due to limited availability of information in any other than Slovak language many aliens do not even know they are entitled to any services at all, so they logically do not show interest in them. The authorities find this convenient and claim there is no demand for their services.”*⁷⁰

- **Brain waste**

Although Slovakia is sought mostly by highly-qualified workforce, some economic migrants in Slovakia are unable to find jobs that correspond to their qualifications. This applies particularly to aliens who have only been granted a temporary residence permit, refugee status or subsidiary protection in Slovakia. A survey conducted by the IPA, that had set out to quantify this state of affairs, came to the following conclusions: *“The share of male migrants who hold job positions requiring medical or pharmacological qualification declined by 3%. But the greatest slump was recorded within civil engineering and other technical professions; the share of migrants among civil engineers and technicians dropped from 16% to 4%. Similarly, only one in four migrant teachers retained their job positions. A similar decline was posted by economic professions that require university education where the share of migrants dropped from 12% to 4%. A significant decline was also recorded in the category of professions requiring secondary education; here the share of migrants declined from 20% to 13%.”*⁷¹ This state of affairs may be attributed to several factors. One of the most important is the language barrier, which complicates recruiting migrants especially to unskilled job positions where the command of foreign language usually does not constitute an added value; on the contrary, the command of Slovak is required. *“Language schools are attended primarily by highly-qualified migrants who hold managerial positions; this indicates that Slovak language courses in language schools are unaffordable for regular economic migrants.”*⁷² Another factor – although not as frequent as language – is the problem with recognizing education and diplomas achieved in migrants’ countries of origin.⁷³

⁶⁸ Human Rights League, “Story of Martin: Who Deserves a Blue Card?”; available at: <http://migrationtothecentre.migraceonline.cz>, accessed 10th August 2013.

⁶⁹ Bargerová, Z., “Slovakia Closes Eyes to Labour Migration”, Human Rights League; available at: <http://migrationtothecentre.migraceonline.cz>, accessed 10th August 2013.

⁷⁰ Lajčáková, J. (ed.), *Menšinová politika na Slovensku – Výročná správa 2012 [Minority Policy in Slovakia: 2012 Annual Report]*, Centrum pre výskum etnicity a kultúry, Bratislava, 2012, p. 63.

⁷¹ Filadelfiová, J. – Gyárfášová, O. – Hlinčíková, M. – Sekulová, M., *Migranti na slovenskom trhu práce: problémy a perspektívy. Ekonomické aspekty migrácie a integrácie migrantov [Problems and Perspectives of Migrants on Slovakia’s Labour Market: Economic Aspects of Migrants’ Migration and Integration]*, Inštitút pre verejnú otázku, Bratislava, 2011, p. 53.

⁷² Chudžíková, A., “Dostupnosť štatistických dát o migrantoch na Slovensku ako podmienka vyhodnocovania politik” [‘Availability of Statistical Data on Migrants in Slovakia as the Condition to Policy Evaluation’] in Vašečka Michal (ed.),

3.4 Discrimination in the workplace

- **Banishing Roma from certain job positions**

Non-governmental organizations in Slovakia frequently encounter cases of Romani employees being transferred to job positions where they do not come in direct contact with foodstuffs, clients or contractors. Many employers argue that their customers are not happy to be served by a Roma. *“My son works at a factory canteen. His forewoman put him to the serving hatch to serve soup, so he did. Then her boss saw it and ordered her to pull him off and replace him with a white one. My son was baffled when he was pulled off; at first he thought he did something wrong but the forewoman explained to him that people from the company did not want their lunches served by a Gypsy. I think they insulted him by that; they should not be allowed to do that, I mean, we are in the EU. My son liked the job but this has turned him off a bit,”* wrote one Romani mother in her complaint e-mailed to People Against Racism.⁷⁴ This non-governmental organization often encounters similar discrimination cases. *“The boss in my current job called me one morning and said: ‘So, what shall we do with you? There has been a huge complaint about you – I mean, not you personally or the way you work – but that you are Roma. One female customer who buys my bread called, asking why a Gypsy delivers her bread and threatening that if I don’t replace you she would stop ordering from me! She said she would order from another bakery, and kept on ranting and raving!’ My boss told me that he had to transfer me to another positions because he did not want to lose a customer! I was stunned; I didn’t know what to say. Now I am not sure about my job and I keep thinking about it; what if another customer calls? I am totally down. I don’t know what to do or who should I turn to.”*⁷⁵

- **Job positions with lower degree of legal protection and lower remuneration**

Generally speaking, both migrants (unless they are highly-qualified professionals or managers of foreign companies) and Roma are often forced to accept job positions with a lower degree of legal protection, lower remuneration and almost non-existent career prospects or employment stability. For instance, the UNDP survey established that almost one in five examined Roma (18.3%) was in the “below €200” wage category, while the share of such employees among majority members from the same geographical location was only 4.3%; the ratio was almost perfectly reversed in the “€600 – €800” wage category (4.1% of the Roma to 17.1% of majority members).⁷⁶

The IPA examined this phenomenon from the viewpoint of economic migrants: *“... temporary residence for the purpose of employment is not a stable prospect, which is why many migrants tend to accept labour conditions they would otherwise refuse, such as lower wages for equal workload, unpaid overtime work, etc. ... The research repeatedly revealed ... the existence of stereotypes with respect to ... migrant labour as some employers expect migrants to be “cheaper” than the local workforce.”*⁷⁷

Indikátory integrácie pre 21. storočie. Vieme ako merať úspešnosť integrácie migrantov? [Integration Indicators for the 21st Century: Do We Know How to Measure the Success of Migrant Integration?], Inštitút pre dobre spravovanú spoločnosť, Bratislava, 2011, p. 31.

⁷³ Centrum pre výskum etnicity a kultúry, Integrácia cudzincov na lokálnej úrovni – časť 2, http://www.cvek.sk/uploaded/files/integracia_bulletin_2.pdf, accessed 11th July 2013

⁷⁴ A case of Roma man requesting legal assistance from ngo People Against Racism, 2011

⁷⁵ A case of Roma women requesting legal assistance from ngo People Against Racism 2012

⁷⁶ United Nations Development Programme, *Správa o životných podmienkach rómskych domácností na Slovensku 2010* [Living Conditions of Roma Households 2010], op. cit., p.149

⁷⁷ Filadelfiová, J. – Gyárfášová, O. – Hlinčíková, M. – Sekulová, M., *Migranti na slovenskom trhu práce: problémy a perspektívy. Ekonomické aspekty migrácie a integrácie migrantov* [Problems and Perspectives of Migrants on Slovakia's Labour Market: Economic Aspects of Migrants' Migration and Integration], op. cit., p. 33.

4. Tackling the challenges

4.1 Public policies

While Slovakia lacks a coherent public policy aimed at combating discrimination in the form of a strategy or policy document, the already mentioned Law No. 365/2004 on Equal Treatment in Certain Areas and on Protection against Discrimination (Antidiscrimination Act) covers this issue in a relatively complex manner. The fact that it has the form of a law actually puts government in a better position to protect discrimination victims compared to, for example, a national strategy or other type of policy document as an act represents one of the strongest normative sources of law in Slovakia's legal order.

- **Public policies specifically targeting minorities**

As far as employment of minorities in the broader context (i.e. not solely in the context of discrimination) is concerned, a very important policy document is the *National Roma Integration Strategy until 2020* (hereinafter referred to as the 'NRIS')⁷⁸, along with its implementation document entitled *Revised National Action Plan of the Decade of Roma Inclusion 2005-2015 for the Period of 2011-2015*.⁷⁹ Both documents view employment as a priority and feature specific chapters dedicated to it. The NRIS also features a separate chapter on the cross-sectional agenda of non-discrimination, which includes several legally relevant issues and priorities (e.g. education, access to goods and services, housing, etc.).

During the examined period though, government pursued almost no activities aimed at accelerating implementation of this most relevant and elaborate policy document targeting the Roma. *"The incumbent supreme executive officials, including Government Plenipotentiary for Romani Communities, Peter Pollák, have not shown the necessary support to policies spelled out in these documents. For instance, there has not been any positive change in the volume of state budget funds that would be allocated to [the] implementation of measures outlined in the Revised Action Plan or the NRIS."*⁸⁰ The envisaged tasks should be performed by individual ministries within the scope of their specific budgetary chapters; total state budget expenditures earmarked for achieving NRIS goals reached €28,276,886 in 2012.⁸¹

The legal status of aliens – and especially their status with respect to employment – is regulated by the Alien Residence Act⁸² and the Employment Services Act.⁸³ As far as national public policies go, the cabinet in 2011 approved the *Strategy of Aliens' Integration*.⁸⁴ At the time of writing, the incumbent administration has yet to evaluate the progress in implementing this policy document.

⁷⁸ Government Resolution, National Roma Integration Strategy until 2020, No. 1/2012, 11 January 2012.

⁷⁹ Government Resolution, Revised National Action Plan of the Decade of Roma Inclusion 2005-2015 for the Period of 2011-2015, No. 522/2011, 10 August 2011.

⁸⁰ Lajčáková, J., *Správa občianskej spoločnosti o implementácii stratégie Slovenskej republiky pre integráciu Rómov do roku 2020 a revidovaného akčného plánu dekády na Slovensku* [Civil Society Report on the Implementation of the Strategy of Roma Integration until 2020 and the Revised Action Plan of the Decade of Roma Inclusion in Slovakia], Decade of Roma Inclusion Secretariat Foundation, Budapest, 2013, p. 7.

⁸¹ *Ibid*, p. 24.

⁸² Law on Residence of Aliens, No. 404/2011, 13 March 2013.

⁸³ Law on Employment Services passed, No. 5/2004, 4 December 2004.

⁸⁴ Article 8, Law on Employment Services, No. 5/2004, 4 December 2004.

- **Active measures on the labour market**

All three cited documents (NRIS, Revised National Action Plan, Strategy of Aliens' Integration) are specifically targeted at the social inclusion of respectively Roma and migrants. Besides, the government may adopt other measures that are supposed to support employment regardless of citizens' ethnicity. They are the so-called active labour market policy tools that are defined in the Employment Services Act⁸⁵, for instance contribution to independent gainful employment, allowance for disadvantaged job seekers employed in social enterprises, contribution to employees' wages, allowance to practical training of university graduates, retraining courses, etc. At the same time, the law introduced the category of so-called disadvantaged job seekers, which includes long-term unemployed, aliens, citizens older than 50, etc. Unfortunately, this category of job seekers does not include residents of socially excluded Romani communities, which makes most of the policy tools practically unavailable to them. After all, the very nature of these policy tools does not correspond to the reality in which marginalized Romani communities must live, which is why they are unlikely to help them overcome their exclusion from the labour market.⁸⁶ According to Slovak non-governmental organizations, "government's active labour market policies have had a very limited impact [on the Roma]".⁸⁷

One labour market tool – namely activation labour allowance – is particularly vividly discussed, especially with respect to marginalized Romani communities, as it serves the best argument to demonstrate any administration's endeavour to support employment of members of marginalized Romani communities. Often presented as the panacea for Romani unemployment, activation labour in fact allows citizens in material need to perform small *pro bono* labour for municipal or regional self-governments in the scope, not exceeding 20 hours per week, and thus enabling them to earn €63.07 per month on top of the material need benefit.⁸⁸

The overall number of people performing activation labour in 2012 was 17 983.⁸⁹ Nevertheless, the practical experience with activation labour is very ambiguous. In regions plagued by high unemployment (in some areas this concerns thousands of job seekers) it is technically almost impossible to organize *pro bono* municipal work for all those interested. Technical equipment, as well as human resources necessary to coordinate activation labour, including legal and administrative costs, often exceed self-governments' financial capacities (even though the allowance itself is disbursed by state administration). In the long term, municipal and regional self-governments report that demand for activation labour vastly exceeds supply. "Activation labour as the key labour market policy tool aimed at tackling long-term unemployment of the Roma is problematic and does not lead to achieving desired goals. This policy tool is based on the stereotypical perception of the Roma as 'inactive' people; consequently, the principal goal is to 'activate' them via often inhuman practices. Since the amount of material need benefits is extremely low, activation labour often represents the only means to increase

⁸⁵ Article 34, Law on Employment Services, No. 5/2004, 4 December 2004

⁸⁶ In segregated settlements that are not equipped with even the basic infrastructure and whose inhabitants have lived in social and territorial isolation for more than two decades, compliance with eligibility conditions to collect certain welfare benefits remains a chimera.

⁸⁷ Lajčáková, J., *Správa občianskej spoločnosti o implementácii stratégie Slovenskej republiky pre integráciu Rómov do roku 2020 a revidovaného akčného plánu dekády na Slovensku* [Civil Society Report on the Implementation of the Strategy of Roma Integration until 2020 and the Revised Action Plan of the Decade of Roma Inclusion in Slovakia], op. cit., p. 9.

⁸⁸ Article 52, Law on Employment Services, No. 5/2004, 4 December 2004.

⁸⁹ Lajčáková, J., *Správa občianskej spoločnosti o implementácii stratégie Slovenskej republiky pre integráciu Rómov do roku 2020 a revidovaného akčného plánu dekády na Slovensku* [Civil Society Report on the Implementation of the Strategy of Roma Integration until 2020 and the Revised Action Plan of the Decade of Roma Inclusion in Slovakia], op. cit., p. 60

the modest family income. Unfortunately, a number of self-governments lack organizational or administrative capacities to organize activation labour.”⁹⁰

A very unfortunate part of the activation labour scheme is that people in material need are often abused and forced to perform hard manual work for municipalities without proper labour contracts or industrial protection (since activation labour does not constitute typical employer-employee relations). *“In many localities, we witnessed Roma performing hard manual labour, for instance excavation works, in the scope of 40 to 80 hours per month for less than minimum wage,”⁹¹* reads the civil society report on NRIS implementation, quoting one local council chairman: *“I use the activation labour tool to the full in order to give people at least some additional income, otherwise I would get rid of the program altogether ... I am 100% positive that activation labour is not meeting its goals and I believe that [the] government is aware of that.”⁹²*

At the time of putting the present Report together, Parliament discussed a bill that sought to decrease material need benefits to persons who refuse to participate in the activation labour scheme.⁹³ According to the Material Need Act, the amount of material need benefits ranges from €60.50 for childless individuals to €212.30 for families with four or more children.⁹⁴ The basic purpose of this benefit is to provide basic social assistance to citizens who have found themselves in the state of material poverty and relates to the government’s commitment to protecting the human life. Consequently, the philosophy of material need benefits is a human rights one and conditioning their disbursement by performing hard manual labour harshly contradicts fundamental human rights standards.

It is fair to draw the conclusion that currently pursued policy tools designed to support employment of minorities, particularly the Roma, not only fail to acknowledge discrimination as one of the basic factors complicating their access to the labour market but are actually built on the principle of social restriction. They seem to ignore the fact that it is decimating these persons’ elementary social income that locks them within the vicious circle of social exclusion from which it is even more difficult to access the regular labour market.

4.2 Access to effective remedies

In Slovakia, violations of the equal treatment principle must be settled before civil courts that are entitled to adjudicate on discrimination cases and decide on satisfaction for discrimination victims. Besides, discrimination victims may also turn to specialized state administration organs that are charged with monitoring and remedying violations of the equal treatment principle in particular areas.⁹⁵ It is impossible to tackle discrimination by means of criminal or transgression law.

⁹⁰ *Ibid.*, p.9

⁹¹ *Ibid.*, p. 61.

In 2012, the minimum wage was established for the sum of 327,20,- Eur.

⁹² *Ibid.*

⁹³ Draft version of the governmental bill on assistance for persons in material need, No. 648/2013, 14 August 2013, <http://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=4582>, accessed 16 August 2013

⁹⁴ Law on Assistance in Material Need that Alters and Amends Certain Laws, No. 599/2003 , 11 November 2003

⁹⁵ For instance Slovak Trade Inspection on matters concerning discrimination in access to goods and services; labour inspectorates on matters concerning violation of the equal treatment principle in labour relations; regional school inspection on matters concerning discrimination in access to education, etc.

4.2.1 Judicial remedies

- **Access to court decisions**

In the previous chapter the Advisory Bureau for Civil and Human Rights, a non-governmental organization that specializes in providing legal protection to discrimination victims and monitoring court decisions on lawsuits that involve discrimination (hereinafter referred to as the 'Advisory Bureau'), was discussed. The basic problem the organisation encountered with monitoring was the complicated process of retrieving information from courts and the generally flawed mechanism of publishing court decisions.⁹⁶ The non-availability of anonymous court decisions renders it impossible to evaluate the application of the Antidiscrimination Act and, consequently, examine the qualitative and quantitative aspects of discrimination. Even if the courts of justice are willing to make their decisions available, based on requests for information filed in compliance with Free Access to Information Act, they are not always able to grant such requests, as their verdicts are not properly categorized. *"Most courts that supplied information on the number of closed cases also added that there was no specific way of monitoring such lawsuits or that they did not keep such statistics. We believe the reason why the courts were unable to provide complex information ... was that there was no standard way of marking cases that involve discrimination."*⁹⁷

- **Number of motions and the reasons for poor initiative on the part of discrimination victims**

Based on information provided by courts of justice, as well as its own experience with representing discrimination victims in courts, the Advisory Bureau for Civil and Human Rights was able to identify 120 cases involving discrimination that had been filed between 2004 and June 30, 2012.⁹⁸ It is important to note that not all the motions have led to issuing court decisions; some of the motions were withdrawn and some of the actions were abandoned due to the failure to settle legal charges.⁹⁹ In 44 of the completed the procedures 26 related to discrimination in employment, 5 to access to employment, 11 to access to goods and services (including housing), 1 to education.¹⁰⁰ Considering that these court decisions were issued over the period of eight years, the overall number of discrimination lawsuits is deplorably low, a fact that has been pointed out to Slovakia by the UN Committee on the Elimination of Racial Discrimination (CERD). *"However, it regrets [the Committee] the information that the Anti-Discrimination Act is not fully operational, and that lengthy court proceedings pose an obstacle for victims of racial discrimination who wish to obtain remedies. It is also concerned at the low number of complaints despite the prevalence of racist speech and crimes in the country."*¹⁰¹

The poor initiative on the part of discrimination victims was illustrated by the Advisory Bureau's research that was based on interviews with members of vulnerable population groups. Less than one

⁹⁶ Durbáková, V. – Ivančo, Š. – Liptáková, S. – Holubová, B., *Diskriminácia na Slovensku. Hľadanie bariér v prístupe k účinnej právnej ochrane pred diskrimináciou* [Discrimination in Slovakia: Seeking Barriers to Accessing Effective Legal Protection against Discrimination], op. cit., pp. 56-67.

⁹⁷ *Ibid.*, p. 60

⁹⁸ *Ibid.*, p. 67.

⁹⁹ Only 90 of the 120 motions monitored by the Advisory Bureau for Civil and Human Rights were relevant.

¹⁰⁰ Durbáková, V. – Ivančo, Š. – Liptáková, S. – Holubová, B., *Diskriminácia na Slovensku. Hľadanie bariér v prístupe k účinnej právnej ochrane pred diskrimináciou* [Discrimination in Slovakia: Seeking Barriers to Accessing Effective Legal Protection against Discrimination], op. cit., p.81

¹⁰¹ Committee on the Elimination of Racial Discrimination, *Concluding observations on the ninth to the tenth periodic reports of Slovakia, adopted by the Committee at its eighty-second session (11 February–1 March 2013)*, CERD/C/ SVK/CO/9-10, 17 April 2013

in twenty discrimination victims (4.7%) actually sought legal remedy or asked for legal assistance while as many as 92% of them did nothing to defend themselves.¹⁰²

This state of affairs was confirmed by the Report on Measures to Combat Discrimination – Country Report Slovakia 2011, whose authors see plausible reasons for the lack of initiative on the part of discrimination victims as follows: *“Potential barriers to initiating antidiscrimination judicial proceedings may include court fees, especially when victims seek non-pecuniary indemnification. The most important barrier is scepticism with respect to judicial proceedings and their outcome, which ensues from the low credibility of the judiciary in general but also from judges’ lack of expertise in the field of antidiscrimination, which also adds another risk and barrier connected to the potential risk of losing – particularly the fear that the complainant would have to settle legal charges in case of losing. Also, judicial procrastination renders judicial proceedings ineffective for discrimination victims.”*¹⁰³

Adding further potential reasons to the list, the Advisory Bureau for Civil and Human Rights pointed out that discrimination victims feared victimisation and did not believe they could win the litigation; in other words, the complainants felt they were in the weaker position even though the burden of proof rests with the defendants. An interesting reason cited by several respondents was “I did not see it as important”. *“This reason for the reluctance to seek legal remedy may indisputably have to do with certain ... resignation to legal settlement in the context of much more important, perhaps even existential problems facing discrimination victims.”*¹⁰⁴

- **Ways of unequal treatment**

The research carried out by the Advisory Bureau for Civil and Human Rights concluded that one third of all analysed court decisions involved direct discrimination; this conclusion was not based on official justification of motions by complainants but rather on its own legal analysis of the case. The Advisory Bureau for Civil and Human Rights pointed out that the filed motions either failed to describe the objected way of unequal treatment or described it incorrectly. Even the official verdicts at times failed to define the exact way the principle of equal treatment was violated. In three cases, the complainants officially objected to indirect discrimination. In one case the court confirmed indirect discrimination, in the other two verdicts for indirect discrimination were not confirmed. According to the legal opinion of the Advisory Bureau for Civil and Human Rights, in fact none of these three cases involved this type of discrimination¹⁰⁵ Based on the outcome of this research, correct legal qualification of indirect discrimination is a problem both for the plaintiffs and the courts alike.¹⁰⁶

- **Deficiencies in the performance of courts of justice**

Apparently, most judges faced great difficulties with the application of the reverse burden of proof, which requires the defendant to prove he has not discriminated as opposed to the complainant having

¹⁰² Durbáková, V. – Ivančo, Š. – Liptáková, S. – Holubová, B., *Diskriminácia na Slovensku. Hľadanie bariér v prístupe k účinnej právnej ochrane pred diskrimináciou [Discrimination in Slovakia: Seeking Barriers to Accessing Effective Legal Protection against Discrimination]*, op. cit., p. 47.

¹⁰³ www.non-discrimination.net, “Report on Measures to Combat Discrimination – Country Report Slovakia 2011”, Debrecéniová, J. and Dluhošová, Z., accessed 8th August 2013.

¹⁰⁴ Durbáková, V. – Ivančo, Š. – Liptáková, S. – Holubová, B., *Diskriminácia na Slovensku. Hľadanie bariér v prístupe k účinnej právnej ochrane pred diskrimináciou [Discrimination in Slovakia: Seeking Barriers to Accessing Effective Legal Protection against Discrimination]*, op. cit., p. 36

¹⁰⁵ Ibid.p.73

¹⁰⁶ Ibid.pp.88-92

to prove he has been discriminated against.¹⁰⁷ Another frequent problem had to do with proving discrimination in compliance with the Antidiscrimination Act by establishing whether person A has been treated less fairly than person B in identical or comparable situations. In this respect, many judges had problems identifying the adequate comparator (i.e. person B): *“The wrong identification of the comparator occurred mostly in cases involving discrimination in access to employment as many courts compared the situation of the complainant to that of other rejected job applicants. ... In our opinion – and according to the valid law, after all – the only acceptable comparator in similar cases is the person that has been hired to the vacant job position; it is the treatment of this person that must be compared to that of the complainant.”*¹⁰⁸

A good example illustrating these difficulties is the case of a Romani teacher with a university degree who was unable to find a job for several years upon completing her studies. She kept filing job applications to teach at various schools only to find out that the job position has been filled by majority applicants, either a student who had not graduated from his university studies or even an applicant who lacked proper qualifications since she had worked as a sales clerk. In hopes of exercising her right to protection against discrimination, the complainant repeatedly turned to almost all human rights institutions in the country but to no avail as her case was rejected even by the national equality body. Eventually, the case was accepted by the Advisory Bureau for Civil and Human Rights. However, the court failed to establish discrimination as it found for the defendant who compared the complainant’s situation to that of other rejected job applicants. In other words, the court used wrong comparators: instead of comparing treatment of the unqualified but successful majority applicant to that of qualified but unsuccessful Romani applicant, the court compared the situation of all rejected candidates and thus logically failed to establish violation of the equal treatment principle.¹⁰⁹

4.2.2 Non-judicial remedies

4.2.2.1 Equality body

The Slovak National Human Rights Centre (SNHRC) holds the official status of a national equality body but used to hold the status of a national human rights institution (NHRI) of the B degree in compliance with the Paris Principles. Based on a resolution passed by the UN General Assembly in 2012, the NHRI accreditation was revoked from the SNHRC on grounds of its unsatisfactory performance in the long term. In 2011, the cabinet discussed and approved a report that examined the situation and performance of the SNHRC, reproaching it for fundamental shortcomings such as the failure to take initiative and represent discrimination victims in courts, unsatisfactory data collection, inadequate commitment to exposing discrimination cases, and insufficient quality of annual reports on the protection and implementation of human rights in Slovakia which, according to the report, lacked any analytical value.¹¹⁰ The SNHRC has been suspected of succumbing to undue political influence exerted by several members of the SNHRC supervisory board and of non-transparent economic management that had been confirmed by an audit carried out by the Supreme Bureau of Supervision.¹¹¹ The

¹⁰⁷ Ibid. pp.88-92

¹⁰⁸ Ibid. pp. 76-77

¹⁰⁹ Danilov, S. *Vzdelanie ako limit [Education as Limitation]*, Nadácia otvorenej spoločnosti, Bratislava, 2013.

¹¹⁰ Governmental Resolution, Analytická správa o činnosti a stave Slovenského národného strediska pre ľudské práva [Analytical report on the activities and state of the Slovak National Centre for Human Rights in the context of institutional protection of human rights in Slovakia], No. 347/2011, 1 June 2011

¹¹¹ Supreme Bureau of Supervision. “Informácia o výsledku kontroly hospodárenia s verejnými prostriedkami v Slovenskom národnom stredisku pre ľudské práva” [Information on the outcome of financial audit in Slovak National Human Rights Centre], <http://www.nku.gov.sk>, accessed 8th August 2013

performance of the SNHRC has also been criticized by the UN Committee on the Elimination of Racial Discrimination.¹¹²

Currently, the SNHRC is in the state of disintegration and is unable to perform its various roles due to serious understaffing. *“The SNHRC has been seen to fail in performing its duties and is liable to succumbing to inadequate political influence ... In May 2012, most SNHRC employees quit their jobs or were fired, which significantly undermined its human resources. Currently, it has approximately five employees. Some of the former employees took legal action against their allegedly unlawful dismissals, charging that they have been fired because of their criticism of the SNHRC, its inadequate performance and undue political influence over its functioning. Former employees charged that SNHRC executive director had hired five new employees, four of whom had no experience with the human rights agenda.”*¹¹³

For all these reasons, it is rather impossible to estimate the SNHRC’s performance in terms of combating discrimination. When the author of the present report requested information on motions involving discrimination in the field of employment, a SNHRC employee in a telephone interview admitted that the SNHRC did not keep exact statistics on discrimination cases according to any criteria (e.g. reasons for discrimination, areas of discrimination, etc). The question remains as to which type of institution in Slovakia should be informed of discrimination if even the national equality body fails to keep structured statistics on discrimination cases it is supposed to be dealing with.

4.2.2.2 Labour inspectorate

Labour inspectorates’ sphere of competence in the field of combating discrimination is regulated by the Labour Code as well as by Labour Inspection Act.¹¹⁴ Labour inspectorates are not entitled to decide on claims, as they focus primarily on supervising and sanctioning employers who have been found to violate the principle of equal treatment in labour relations.

Labour inspectorates can inspect employers’ observance of the principle of equal treatment in two basic ways: they either react to motions filed by individual complainants or take initiative in conducting their own inspections. *“In 2012, labour inspectorates did not carry out any inspections that would be specifically aimed at checking on employers’ discriminatory action with respect to employees,”* reads the Report on the Observance of Antidiscrimination Legislation in 2012 published by the National Labour Inspectorate.¹¹⁵

In the report, the National Labour Inspectorate observed that it had accepted a total of 103 anti-discrimination motions, qualifying 11 of them as justified and referring a further 61 to civil court proceedings. Unfortunately, the analysis of labour inspectorates’ performance featured in the report is somewhat half-hearted, indicating rather poor awareness of the issue both on the part of labour inspectors and on the part of employees. The analysis of filed motions indicated that most employees

¹¹² Committee on the Elimination of Racial Discrimination, Concluding observations on the ninth to the tenth periodic reports of Slovakia, adopted by the Committee at its eighty-second session (11 February–1 March 2013), CERD/C/SVK/CO/9-10, 17 April 2013

¹¹³ Lajčáková, J., *Správa občianskej spoločnosti o implementácii stratégie Slovenskej republiky pre integráciu Rómov do roku 2020 a revidovaného akčného plánu dekády na Slovensku* [Civil Society Report on the Implementation of the Strategy of Roma Integration until 2020 and the Revised Action Plan of the Decade of Roma Inclusion in Slovakia], op. cit., p. 34

¹¹⁴ Law on Labour Inspection., No. 125/2006, 2 February 2006

¹¹⁵ National Labour Inspectorate, *Správa o dodržiavaní antidiskriminačnej legislatívy za rok 2012* [Report on the Observance of Antidiscrimination Legislation in 2012], Národný inšpektorát práce, Bratislava, 2013, p. 3.

tend to complain about unequal remuneration, without supporting their claims with any concrete reasons for discrimination. (It is assumed that such motions object to discrimination ensuing from sympathies or antipathies between employees and employers; therefore, it is difficult to establish whether these cases involve discrimination in the legal sense). On the other hand, the language of the annual report reveals the National Labour Inspectorate pinning the blame for its poor or non-existent inspection activity in this area: *“In practice, labour inspectorates are in a very difficult position to determine when discrimination has occurred...”*; *“It requires much greater powers to establish that there has been a violation of antidiscrimination legislation...”*; *“It is impossible to prove these transgressions by the means of labour inspection as it often takes place ex post.”*¹¹⁶

The Citizen, Democracy and Accountability civic association, which in 2011 monitored the performance of labour inspectorates and organized training programs for their employees, sees the issue from a slightly different perspective: *“It seems indisputable from the analysed data that [labour inspectorates] do not cope with their task as well as they should. This shows, for instance ... in cases of violations (that are very rarely identified), labour inspectorates prefer ordering the offender to remedy the unlawful state of affairs to imposing (adequate and exemplary) fines and that they (probably) refer discrimination victims to judicial proceedings; in doing so, they transfer the financial, mental and organizational burden of coping with discrimination onto the victims. Labour inspectorates themselves admit that their awareness of discrimination is inadequate and that they lack experience with proving it.”*¹¹⁷

4.3 Civil society initiatives

4.3.1 NGOs activities

Non-governmental organizations play a crucial role in monitoring discrimination, conducting surveys and analyses aimed at defining obstacles that complicate minorities' access to the labour market, educating professional groups about legal aspects of discrimination and providing legal counselling and assistance to discrimination victims. For instance, the non-governmental organization Advisory Bureau for Civil and Human Rights, often literally substitutes the role of government and its agencies, such as the Slovak National Human Rights Centre in defending discrimination victims' rights; based on its many years of experience and ample expertise in the field of strategic litigation, it has not only helped resolve many discrimination cases but also exposes loopholes in valid legislation and application practice.

With respect to the rights of migrants and their integration in Slovakia, activities of Center for Research of Ethnicity and Culture are worth mentioning. In addition to research and monitoring, the Centre is providing support to municipalities in developing local policies for the integration of aliens. An example of such activity is the adoption of the first local strategy for the integration of aliens by the city of Martin, development of which was assisted by the Center.¹¹⁸ Practical assistance to aliens is

¹¹⁶ *Ibid.*

¹¹⁷ Debrecéniová, J. – Pufflerová, Š, *Inšpektoráty práce a ich pôsobenie pri plnení záväzkov SR týkajúcich sa presadzovania dodržiavania zásady rovnakého zaobchádzania v pracovnoprávných a štátnozamestnaneckých vzťahoch* [Labour Inspectorates and Their Performance in Discharging Slovakia's Commitments in the Field of Furthering the Principle of Equal Treatment in Labour and Civil Service Relations], *Občan, demokracia a zodpovednosť*, Bratislava, 2011, p.2.

¹¹⁸ Gažovičová, T. and Krigelrová, E., „Prvá samospráva na Slovensku prijala lokálnu stratégiu integrácie migrantov“ [The first municipality government in Slovakia has adopted a local strategy for integration of migrants'], *Menšinová politika na Slovensku* 3 (2012), p.8

provided also by the Human Rights League, which operates online legal counseling for aliens in matters of stay and associated necessary permits.¹¹⁹

4.3.2 Other civil initiatives

Sergej Danilov, a journalist who conducted investigatory reporting on the case of Roma teachers with university education who did not succeed in getting employment for a number of years. Thanks to the attention his reporting brought to the case, the state secretary of the Ministry of Labour took interest in the case and hired the applicant in question. Sergej Danilov described the story of the young Roma woman who had university education and who faced discrimination in access to employment also in a book entitled 'Education as a limiting factor'.¹²⁰

4.3.3 Individual employers' initiatives

An example of individual employers' initiative is a project run by U.S. Steel Košice under the title "Equality of Opportunities"¹²¹. The steel mill based in the Eastern Slovak town of Košice furthers the employment of the Roma in the city. District council chairmen, in cooperation with community workers, scout the local Romani population to find suitable job seekers who want to work and change their way of life, support their children's education and increase their qualifications. The project was launched in 2002 and has employed about 150 Roma to date.

5. Conclusions and recommendations

5.1 Political and societal developments related to racism and discrimination

During the examined period, the public discourse, including the rhetoric used by the politicians did not become any more favourable with respect to minorities than before; however, there have been certain positive legislative changes in the field of antidiscrimination and hate crime.

- ***Affirmative action in Antidiscrimination Act***

Since its adoption in 2004, the Antidiscrimination Act has seen a remarkable development in terms of affirmative action vis-à-vis racial, national and ethnic groups. In its original version, the law allowed state administration organs to adopt so-called temporary equalization measures (TEM) with respect to persons who were disadvantaged based on their affiliation to racial, national and ethnic groups. Shortly after the law's adoption, though, the Constitutional Court ruled that such a philosophy of affirmative action was inconsistent with the Slovak Constitution and ordered the provision on TEM to be removed from the law.¹²² Until 2013, the Antidiscrimination Act defined TEM only as a tool that was

¹¹⁹ Liga za ľudské práva, Human Right League, <http://www.hrl.sk>, accessed 27th October 2013

¹²⁰ Danilov, S. Vzdelanie ako limit [Education as Limitation], Nadácia otvorenej spoločnosti, Bratislava, 2013

¹²¹ U.S. Steel, s.r.o., <http://www.usske.sk/citizenship/rom-e.htm>, 07 August 2013

¹²² In its ruling No. ÚS 8/04-202 of October 18, 2005, the Constitutional Court argued that all people were equal in terms of dignity and rights, regardless of their racial, national or ethnic origin. Granting specific rights as the way of overcoming disadvantages that ensue from people's affiliation to certain population groups would according to the Constitutional Court violate the constitutional principle of equality.

designed to help overcome “social and economic disadvantage as well as handicaps ensuing from age and health disability”.¹²³

The Constitutional Court ruling triggered a lengthy expert debate in which non-governmental organizations repeatedly demanded that individuals’ affiliation to racial, national and ethnic groups be restored as a legitimate reason for the adoption of affirmative action measures.¹²⁴ In early 2013, parliament finally passed a much desired amendment to the Antidiscrimination Act, which extended the list of reasons for the adoption of affirmative action measures to include gender, sex, racial and ethnic origin and affiliation to national minority or ethnic group.

Non-governmental organizations perceive the amendment in a positive light, although they are aware that practical implementation remains the law’s greatest challenge. “*The unambiguous legal definition of TEM may give Slovakia great hope to adopt and pursue policies aimed at promoting equal opportunities, especially in the field of education and employment of the Roma,*” wrote Jarmila Lajčáková of the Centre for the Research of Ethnicity and Culture. “*Unfortunately, there are reasons to believe that this hope will not be materialized as none of supreme government officials has unequivocally subscribed to the new concept of TEM.*”¹²⁵

- **Legislative changes pertaining to the status of migrants**

In March 2013, the National Council of the Slovak Republic passed a law that amended the Alien Residence Act.¹²⁶ The amendment enacted a number of changes, most of which may be viewed positively. Most importantly, it introduced a 30-day protection limit for aliens with a temporary residence status who happen to lose their jobs. Before this amendment was passed, temporary residents who lost their jobs automatically saw their temporary residence permits revoked. This put alienmigrants at a great disadvantage vis-à-vis their employers who were free to take advantage of these employees’ dependence on their jobs, which was indeed the case.

Another positive change pertaining to the legal status of aliens has been proposed by the cabinet-initiated bill that seeks to amend the Employment Services Act.¹²⁷ The Human Rights League commented on the proposed bill as follows: “*The amended law will allow subsidiary protection holders to work freely, without being obliged to apply for the work permit. The work permit requirement constitutes a major barrier that prevents subsidiary protection holders from accessing the labour market, find suitable jobs and gain independence from state or service providers. After five years of*

¹²³ In compliance with Article 8a Paragraph1 of Law No. 365/2004 (Antidiscrimination Act) that was valid until April 1, 2013. Of course, a person’s affiliation to racial, national or ethnic groups continued to be regarded as a motive for discrimination, provided it was the reason for the person’s unequal treatment. In this particular case, though, the point was whether affiliation to racial, national or ethnic groups is a type of disadvantage that justifies application of affirmative action in the form of temporary equalization measures.

¹²⁴ Bihariová, Irena, “Sociálno-ekonomické znevýhodnenie versus etnický pôvod ako dôvody použitia dočasných vyrovnávacích opatrení” [‘Socio-Economic Disadvantage versus Ethnic Origin as Reasons to Adopt Temporary Equalization Measures’] in Filčík, Marián (ed.), *Právne aspekty rovnakého zaobchádzania v slovenskej realite* [Legal Aspects of Equal Treatment in Slovak Reality], Úrad vlády Slovenskej republiky, Bratislava, 2012.

¹²⁵ Lajčáková, J., *Správa občianskej spoločnosti o implementácii stratégie Slovenskej republiky pre integráciu Rómov do roku 2020 a revidovaného akčného plánu dekády na Slovensku* [Civil Society Report on the Implementation of the Strategy of Roma Integration until 2020 and the Revised Action Plan of the Decade of Roma Inclusion in Slovakia], op. cit., p. 8.

¹²⁶ Law No. 75/2013 that alters and amends Law No. 404/2011 on Residence of Aliens passed on March 13, 2013.

¹²⁷ Proposed amendment to Law No. 5/2004 on Employment Services that seeks to alter and amend certain laws.

*advocating this change, the work permit requirement for subsidiary protection holders will become history.*¹²⁸

- **Roma reform – “The Right Way”**¹²⁹

On the other hand, the examined period also brought several less-than-positive developments and changes. One of them is a draft of the so-called “Roma reform” that was announced by the Government Plenipotentiary for Romani Communities, Peter Pollák. In the most recent parliamentary elections in March 2012, Pollák became the first Roma elected to the national assembly in Slovakia’s modern history; he was appointed to the post of government plenipotentiary in the fall of 2012.

Although the cabinet approved the National Roma Integration Strategy until 2020 (NRIS) in early 2011, Pollák initiated drafting a completely new policy document immediately after his assumption of office. Naming it proudly as “The Right Way”, Pollák announced the reform would include approximately 100 concrete measures to tackle “*problems caused by all socially maladjusted citizens*”.¹³⁰ As of today, though, he has only introduced ten basic pillars of reform and two thematic chapters concerning education and law enforcement.¹³¹

Referring to socially excluded Romani communities as “risky families” in places, the document intends to “*adjust the social security system in order to prevent situations in which it pays better to stay at home than to go to work*”.¹³² The proposed solution is *pro bono* work citizens must perform in order to deserve part of their welfare benefits. “*Slovakia is not as rich as to afford handing out money for free to people who are fit to work.*”¹³³

According to Pollák, one of the reform’s most effective tools is the proposed mechanism that allows taking away material need benefits from those recipients who commit a transgression or ordering them to perform *pro bono* work for the municipality.¹³⁴

Unfortunately, this ambition seems to have forgotten that material need benefits are the means of fundamental social protection of citizens who have found themselves in the state of material need.¹³⁵ In compliance with the Slovak Constitution, as well as international human rights conventions, the government is obliged to provide basic existential assistance to all citizens who are objectively in the state of material poverty. They express this country’s commitment to protecting the life of every human being; in other words, welfare benefits represent the practical guarantee of the right to life and as such it must not be pegged to citizens’ specific merits.

The reform’s announced draft caused a fury among non-governmental organizations, as well as among experts who specialize in public policies targeting the Romani minority. “*To me, [the reform] is an ominous list of government’s ideas to tackle the so-called Roma issue,*” said Laco Oravec of the Milan Šimečka Foundation who has specialized in problems of Romani communities for more than a decade.

¹²⁸ Številová, Z., “The Policy of Labour Migration in Slovakia – Lights in the Darkness”, Human Rights League; available at: <http://migrationtothecentre.migraceonline.cz>, accessed 10th August 2013.

¹²⁹ Ministry of Interior, *Rómska reforma – Správna cesta* [Roma Reform – The Right Way]; available at: <http://www.minv.sk/?romskareforma1>, accessed 28th July 2013.

¹³⁰ *Ibid.*

¹³¹ *Ibid.*

¹³² *Ibid.*

¹³³ *Ibid.*

¹³⁴ According to the currently valid law, material need benefits are exempt from distraint procedures; the amount of the benefit equals €60.50 per adult person per month.

¹³⁵ Law on Assistance in Material Need that Alters and Amends Certain Laws, No. 599/2003 , 11 November 2003.

*“It introduces elements of police state through perception that only sees the negative things.”*¹³⁶ Other Roma activists seconded this opinion. *“The government plenipotentiary listened to criticism of the proposed reform’s ten pillars from Irena Bihariová with the People against Racism civic association who believes that public policy with respect to the Roma has deteriorated to the level of online debates,”* the *Sme* daily reported. *“According to her, the entire initiative follows in the footsteps of the tradition to demonize the Roma in Slovakia. She reproached the plenipotentiary for ignoring historic poverty and marginalization of the Roma.”*¹³⁷ *“My feeling is that the basic purpose of [the reform] is not to pull marginalized communities from their social stagnation but rather to satisfy the public demand,”* Bihariová later said for the newspaper.¹³⁸

One should also note that the announced policy document fails to take into account research findings of the UNDP survey and contradicts the principles of tackling the problems of marginalized communities spelled out in the NRIS. It completely ignores the disadvantaged social status of the Roma, and its ten pillars fail to outline a single measure that would tackle the issues of discrimination, social exclusion or the phenomenon of anti-Gypsyism. *“The proposed reform, which is discriminatory in many respects, is based on the philosophy of exacting certain behaviour under the threat of sanctions. This philosophy coarsely contradicts the NRIS principles,”* concluded the authors of the Civil Society Report on the Implementation of the Strategy of Roma Integration until 2020 and the Revised Action Plan of the Decade of Roma Inclusion in Slovakia.¹³⁹

- **Hate crimes**

On June 2012, former police officer Milan Juhasz shot dead three Roma citizens and seriously injured two Roma, all from the same family, in Hurbanovo. He parked his own car in front of the house of a Roma family and then shot dead a 44-year-old man, his 19-year-old son and 24-year-old son-in-law.¹⁴⁰ According to media reports, a few days after the incident the perpetrator told a judge that “I woke up in the morning with the thought that I have to restore order around them.”¹⁴¹ The Office of the Special Prosecutor reportedly charged the shooter with premeditated murder, violation of the sanctity of a home and carrying a concealed weapon. Neither police, nor the court seemed this case as racial motivated or as a hate crime. The Court came to the decision that the perpetrator had not been completely sane when he committed the shooting, and sentenced him only to nine years imprisonment.¹⁴²

¹³⁶ SME daily, “Matovič si tľapol s Kaliňákom, idú na Rómov!” [‘Matovič and Kaliňák Shake, Embark on the Roma’], Trško M., 18 September 2012, available at: www.sme.sk, accessed 25 June 2013.

¹³⁷ SITA news agency, “Na hlavu rómskeho splnomocnenca Polláka sa zosypala kritika” [‘Romani Plenipotentiary Pollák Doused in Criticism’], 8 October 2012; available at: www.webnoviny.sk, accessed 25th July 2013.

¹³⁸ TASR news agency, “Bihariová: Polákov program je odsúdený na neúspech” [‘Bihariová: Pollák’s Program Is Doomed’], 8 October 2012, available at: www.sme.sk, accessed 25th July 2013.

¹³⁹ Lajčáková, J., *Správa občianskej spoločnosti o implementácii stratégie Slovenskej republiky pre integráciu Rómov do roku 2020 a revidovaného akčného plánu dekády na Slovensku* [Civil Society Report on the Implementation of the Strategy of Roma Integration until 2020 and the Revised Action Plan of the Decade of Roma Inclusion in Slovakia], op. cit., p. 7.

¹⁴⁰ The Spectator, „Hurbanovo shooter to undergo psychiatric exam“, 25 June 2012, available at: <http://spectator.sme.sk>, accessed 27 October 2013

¹⁴¹ European Roma Right Center, „Attacks against Roma in Slovakia: January 2008-July 2012, available at: <http://www.errc.org/cms/upload/file/attacks-list-in-slovakia.pdf>, accessed 27 October 2013

¹⁴² Romea.cz, „Slovakia: Punishment for shooter of three Romani victims called absurdly low“, 28 March 2013, available at: <http://www.romea.cz/en/news/slovakia-punishment-for-shooter-of-three-romani-victims-called-absurdly-low>, accessed 27 October 2012

5.2 Conclusions and recommendations

For more than two decades, the problems ensuing from the disadvantaged status of minorities on Slovakia's labour market have been desperately calling for a solution. Long-term unemployment of the Roma that is a direct result of historic socio-economic changes, discrimination and their social exclusion, edges them more and more onto the periphery of society and makes their access to the country's labour market increasingly difficult. Recent findings of the UNDP survey clearly show that the presence of the Roma on Slovakia's labour market is alarmingly low, which in turn negatively affects other aspects of the quality of life and their relations with the majority. In the field of access to employment, the Roma suffer from greater discrimination than any other minority, as even educated and qualified job seekers have to face stereotypes and prejudices on the part of employers. Although the government's positive intervention seems way overdue and although the country's antidiscrimination legislation allows for the adoption of affirmative action since the spring of 2013, the government's practical policies, with respect to the Roma, continue to rely on socially repressive solutions. It seems that it is much more important to focus on the practical implementation of the NRIS, rather than on the traditional models of restricting citizens' basic social protection against existential poverty.

Migrants' status is not essentially better than that of the Roma, especially when it comes to third-country nationals whose equal access to the country's labour market is complicated by the complex and unpredictable process of obtaining permits that are required in order to engage in any economic activity in Slovakia. Needless to say, this is the most effective way of losing qualified workforce as Slovakia rarely capitalizes on economic migrants with adequate qualifications. In this respect, it seems necessary to focus on the elimination of obstacles to employing qualified workforce, particularly in enhancing the effectiveness of the aliens' language education system and making basic information on the labour market available also in foreign languages.

Other obstacles to eliminating discrimination from the labour market can be found within institutional mechanisms of legal protection; they include the inadequate activity of the Slovak National Human Rights Centre that has been paralysed in the long term, the deficient initiative of labour inspectorates or the financial and time constraints of judicial proceedings.

Last but not least, it is necessary to point out that tackling discrimination on the labour market calls for more than just antidiscrimination policies and legislation. This rings especially true because discrimination in the field of employment is inherently interconnected to macroeconomic problems of the country, regional disparities in economic development and poorly managed housing and education policies. Therefore, the greatest challenge in tackling discrimination in the field of employment in the long term is finding "cross-sectional" tools that take into account these determinants. They can be summed up as follows:

1. Policies based on affirmative action:

- Privileging employers who demonstrably employ the Roma (e.g. via a more favourable taxation and contribution regime);
- Preferring projects and subjects that intend to involve the Roma in public tenders and state contracts;
- Preferring the Roma when filling so-called auxiliary professions operating in marginalized Romani communities (e.g. teaching assistants, Roma police specialists, social community fieldworkers, healthcare assistants, etc.);

- Amending legislative regulation of auxiliary professions in order to make them available to job seekers from Romani communities; improving remuneration of these professions.

2. *Exposing discrimination by labour inspectorates:*

- Creating a specific program that would allow labour inspectorates to take initiative in monitoring and supervising observance of the principle of equal treatment in the field of employment with a special emphasis on ethnic minorities, including the methodology, the system of data collection and the plan of tasks for particular calendar years (i.e. defining regions, types of employers, testing methods, etc.);
- Analysing data gathered by annual monitoring in order to define the extent of discrimination on the labour market.

3. *Institutional framework of protection against discrimination:*

- Fundamentally reconstructing the Slovak National Human Rights Centre in order to make it able to provide free advocacy services to discrimination victims;
- Exempting victims of discrimination from legal fees in lawsuits involving discrimination;
- - Providing sustained financial support to non-governmental subjects that in the long term demonstrably operate in the field of providing legal assistance to discrimination victims;
- Helping centres of legal assistance reach members of socially excluded Romani communities;
- Improving education of future law professionals on discrimination issues; introducing specific education and training programs for members of the legal profession, eg judges, trainee solicitors, etc. that pay special attention to the principle of reverse burden of proof;
- Clarifying the legal obligation that binds courts of justice to publish their decisions in order to improve the collection of data on discrimination.

4. *Influencing the public opinion in order to overcome employers' lack of trust in Romani job seekers:*

- Supporting and publicising positive examples of employing Roma and migrants;
- Organizing educational campaigns aimed at eliminating the myths about Roma and migrants in the eyes of general public;
- Mainstreaming successful good practices in the field of employing Roma and migrants, with a special emphasis on symbolic public acknowledgement of employers who are committed to championing the principle of diversity in the workplace.

5. *Enhancing transparency and public supervision over projects aimed at the employment of disadvantaged population groups that are co-financed from EU structural funds:*

- Creating a specific mechanism designed to assess financial and accounting parameters of supported projects and their compliance with the conditions of providing financial aid as well as to evaluate the performed activities and their actual impact on target groups.
- Please add a recommendation on the official collection of disaggregated data in employment as a pre-requisite to policy planning

6. *Cross-sectional approach:*

- Establish mechanisms allowing for collection of disaggregated data including nationality and ethnicity enabling evidence based policy planning

- Implementing the NRIS and the Revised Action Plan in all their entirety (i.e. housing, healthcare, education, employment, combating discrimination, and financial inclusion);
- Supporting community centres and social fieldwork; considering the possibility of making elaborate periodic reports on the situation and problems in specific areas;
- Introducing affirmative action measures in the field of secondary and higher education in order to build qualified Romani workforce;
- Legalising existing housing in marginalised Romani communities, with a special emphasis on the upcoming EU budgetary period with respect to drawing financial aid from EU structural funds.

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