



PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Independent Expert on minority issues and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and Independent Expert on minority issues pursuant to Human Rights Council resolutions 16/33 and 16/6.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the following situation.

According to information received:

Several Roma living in a settlement at the outskirts of Moldava nad Bodvou were recently violently attacked by police officers during a search raid. Several witnesses have alleged wrongdoings by the police, including excessive use of force, property destruction, arbitrary detention, and torture.

On 15 June 2013, the Roma inhabitants in the settlement were celebrating the completion of an internationally funded project. At the end of the celebration, two policemen from the Slovak Republic Police allegedly arrived at the settlement. One of the policemen walked up to a 17-year-old male, asking him to produce his identity card. Allegedly, after the teenager asked why his identification was being requested, the policeman dragged him to the police car and arrested him. This provoked protest from bystanders, including from a man with severe intellectual disabilities who was reportedly arrested after throwing stones at the police car. Both the teenager and the man were taken into custody and charged with "attacking a public official." The teenager was allegedly repeatedly beaten by police officers while in custody.

On 16 June 2013, Vladmir Sucha, Deputy Director General of the European Commission's Joint Research Center, who had participated in the 15 June celebration, went to the police station to testify as to the calmness of the festivity

and the compliance of the inhabitants with the police request to lower the noise level during the celebration. Mr. Sucha is said to have additionally provided the names of seven people who volunteered to testify in favour of the teenager. He reportedly had to provide subsistence for the two detainees as the police informed him that neither food nor water would be provided to them.

According to information received, the teenager was not provided adequate access to legal counsel as a minor. Rather, it is reported that he was provided a court-assigned lawyer who convinced him to sign a confession in order to be released from prison. Despite his release on 19 June 2013, his criminal prosecution is ongoing and he has allegedly been subjected to harassment and intimidation from the police which lead to his hospitalization. The man with severe intellectual disabilities was sent to remand prison despite his severe health condition.

On 19 June 2013, it is reported that 60 policemen, 15 of them masked, entered the settlement for a purported “search operation.” The said raid is alleged to have been a retaliation, the teenager having overheard while in detention some policemen talking about a big retaliatory raid on the settlement. The seven people who had volunteered to testify in favour of the teenager were reportedly targeted during the search raid as their names were the only names on the search list. Three of them who were present in the settlement at the time of the raid were arrested. The two policemen who were involved in the 15 June incident allegedly also took part in the 19 June raid. One of them is said to have a Facebook profile with racist posting against Roma people.

In the course of the raid, police allegedly beat several men, women and children with truncheons. It was reported that at least 30 people were injured. Police reportedly systematically destroyed people’s properties, including doors of newly built houses, objects of value, such as TV sets, but also food supplies. According to information received, twelve individuals were ultimately violently arrested and detained, among them: [REDACTED], 27, who identified himself to the police as the pianist who performed during the 15 June celebrations, [REDACTED], 26, who is one of the community centre workers involved in organizing the celebrations and the 17-year-old male who was arrested for the second time. All detainees were allegedly subjected to violence and torture while in custody at the police station. It is reported that they were made to lie face down on the ground while police jumped on their backs and beat them with truncheons. Despite claims by the Head of Police, General Tibor Gašpar, that none of the persons arrested had experienced injuries and that they had been examined by a police doctor, several of those arrested had to be taken to the hospital in Košice upon their release as they were denied medical care by health services in Moldava nad Bodvou. One man reportedly required 40 days sick leave to recover. None of those arrested were questioned during their detention, and they were ultimately released without charges.

It is reported that General Gašpar justified the search operation as well as the use of force by police officers as a response to mounting crimes in the area and police self-defence. It was further reported that on 30 July, the Minister of interior, while publicly announcing the result of the investigation conducted by the Ministry's inspection, informed that all allegations of injuries resulting from the raid were unverified and that the police proceeded correctly and proportionately. However, the witnesses who had volunteered to testify on behalf of the teenager were allegedly never interviewed and no government representatives have yet visited the settlement since the raid. Furthermore, hostile anti-minority statements by government officials, including the Prime Minister, have been reported to be on the rise.

While making no judgment as to the accuracy of the above allegations, we would like to express serious concerns regarding the allegations of police misconduct, particularly because the abuses seem to be racially motivated and directed at a minority group. We would like to remind your Excellency's Government of its obligations under the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), both succeeded to by Slovakia on 28 May 1993. Article 2 of the ICCPR requires that State Parties afford all rights in the Covenant "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Article 2 of CERD obligates each State Party "to engage in no act or practice of racial discrimination against persons [or] groups of persons... and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation." The Universal Declaration of Human Rights (UDHR) states in article 2 that "[e]veryone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race." Additionally, the European Convention on Human Rights (ECHR), ratified by Slovakia on 18 March 1992, requires in article 14 that "the rights and freedoms set forth in this Convention shall be secured without discrimination on any grounds such as... race,... national or social origin, [or] association with a national minority."

We would also like to reiterate the concerns raised by the CERD Committee in its 2013 Concluding Observations on Slovakia in which it stressed the "continued stigmatization of, and discrimination against Roma and their ongoing precarious socio-economic situation." (CERD/C/SVK/CO/9-10,para.10). Additionally, the Committee noted "the absence of an independent body to monitor and prosecute the alleged incidents of police brutality against persons belonging to minority groups, in particular Roma." (CERD/C/SVK/CO/9-10,para.9). We would further like to draw the attention of your Excellency's Government to the CERD Committee's General Recommendation XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system which stressed in its paragraphs 21 that: "States parties should prevent and most severely punish violence, acts of torture, cruel, inhuman or degrading treatment and all violations of human rights affecting persons belonging 'to- racial or ethnic groups, in particular non-citizens –including "[...] Roma/Gypsies [...]"-which are committed by State officials, particularly police." (A/60/18, para.21). Furthermore, the

CERD Committee's in its General Recommendation XXVII on discrimination against Roma calls on States to "ensure protection of the security and integrity of Roma, without any discrimination, by adopting measures for preventing racially motivated acts of violence against them" and asks States "to take measures to prevent the use of illegal force by the police against Roma, in particular in connection with arrest and detention." (A/55/18, paras. 12 & 13). Additionally, the Durban Declaration and Programme of Action "urges States, including their law enforcement agencies, to design and fully implement effective policies and programmes to prevent, detect and ensure accountability for misconduct by police officers... which is motivated by racism, racial discrimination, xenophobia and related intolerance, and to prosecute perpetrators of such misconduct" (Programme of Action, para. 71).

With regard to the police raid which led to the alleged arrest of twelve Roma without charges, we would like to draw your attention to article 9 of the ICCPR which ensures the "right to liberty and security of person," and provides that "no one shall be subjected to arbitrary arrest or detention." This right is also guaranteed in article 9 of the UDHR and article 5 of the ECHR. The CERD Committee's in General Recommendation XXXI states that "parties should also guarantee to all arrested persons, whatever the racial, national or ethnic group to which they belong, enjoyment of the fundamental rights of the defence enshrined in the relevant international human rights instruments..., in particular the right not to be arbitrarily arrested or detained, the right to be informed of the reasons for their arrest, ... [and] the right to the assistance of counsel." (para.23).

With regard to the fact that the 17-year-old teenager was allegedly required to sign a confession in order to be released from detention, we would like to draw your attention on procedural rights including the right not to be compelled to testify against oneself or to confess guilt as contained in article 14 (3) (g) of the ICCPR.

With regard to the allegations of severe violent treatment of those detained as well as the beating of residents of the settlement by the police, we would also like to draw to your attention article 5(b) of CERD, which protects the "right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution." The prohibition on torture and cruel, inhuman and degrading treatment is provided for in Article 7 of the ICCPR, article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, succeeded to by Slovakia on 28 May 1993, article 5 of the UDHR and article 3 of the ECHR.

With regard to the allegations of destruction of personal belongings, food supplies, and shelter we would like to draw your Excellency's Government attention to article 11 of the International Covenant on Economic, Social and Cultural Rights, which guarantees the "right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." Article 5(d)(v) of CERD protects the "right to own property," while article 5(e)(iii) protects the "right to housing." Additionally, article 17 of the UDHR states

that “no one shall be arbitrarily deprived of his property,” and article 25 ensures the rights to food and housing.

In addition, we wish to draw the attention of your Excellency's Government to the provisions of the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Article 1.1 of the Declaration provides that “States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity”. Article 4.1 of the Declaration establishes that: "States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law." Particular attention is drawn to the need for law enforcement personnel to exercise their duties and responsibilities in full compliance with international and national standards of non-discrimination.

Moreover, since it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the cases accurate?
2. Have complaints been lodged with regard to the incidents mentioned?
3. Please provide the details and where available the results of any investigation, and judicial or other inquiries or any criminal charges brought against the police officers in relation to these incidents. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide details of any legislation and policy that exists to protect and promote the rights of persons belonging to ethnic minorities and in particular Roma people.
5. Have any measures been taken to prevent any escalation of the reported violence, including training on non-discrimination for law enforcement officials and judges?
6. Please indicate what further protective measures will be taken to ensure the physical safety of Roma in the exercise of their right to freedom of peaceful assembly?

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to prevent further violence by police forces, and ensure that the any person responsible of the alleged violations be held accountable before the law.

We undertake to ensure that your reply is reflected in the reports that we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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