

Legal Standards

INTERNATIONAL AND REGIONAL STANDARDS TO ESTABLISH STATE RESPONSIBILITY

The findings described in the previous sections indicate serious violations of the human rights, including the reproductive rights, of Romani women that the Slovak government is legally obligated to address. There are numerous international and regional human rights instruments containing the standards with which Slovakia must comply. Slovakia's duties under those instruments include protecting and fulfilling the human rights of all its citizens, in particular those suffering the greatest societal discrimination, such as the Roma. The Slovak government is in violation of human rights standards when its policies or the acts of its agents (including government-employed health-care personnel) violate human rights standards. Moreover, human rights law also requires the Slovak government to take affirmative measures, including adopting and enforcing appropriate laws and policies, to protect its citizens from violations of their human rights by third parties.

This section provides a brief overview of the primary sources for Slovakia's duties under applicable international and regional human rights law and policy. Several of the most significant international treaties that are relevant for this analysis are as follows:

- the International Covenant on Civil and Political Rights (Civil and Political Rights Covenant);³¹⁰
- the International Covenant on Economic, Social and Cultural Rights (Economic, Social and Cultural Rights Covenant);³¹¹
- the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention);³¹²
- the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);³¹³
- the Convention on the Elimination of All Forms of Racial Discrimination (Convention against Racial Discrimination);³¹⁴ and
- the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture).³¹⁵

Right to be Free from Crimes Against Humanity

The practice of coercively sterilizing a targeted ethnic or racial group falls under the crime of genocide, regarded as the worst crime under international law. If it were established that the current practice of coercively sterilizing Romani women had been carried out with the “intent to destroy, in whole or in part” a targeted racial group, then the crime of genocide could be applicable. Article II of the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention)³⁶² defines genocide to include the act of “imposing measures intended to prevent births” within a “national, ethnic, racial, or religious group,”³⁶³ whether in time of peace or in time of war.³⁶⁴ The Genocide Convention obligates states parties to prevent and punish genocide and imposes criminal responsibility on individuals who commit it, “whether they are constitutionally responsible rulers, public officials or private individuals.”³⁶⁵ The International Criminal Court (established by the Rome Statute), which has jurisdiction over genocide and other specific crimes against humanity, as well as the ad hoc International Criminal Tribunals for Rwanda and the Former Yugoslavia, have adopted the Genocide Convention’s definition of genocide.³⁶⁶ The Rome Statute of the ICC, as the instrument creating the International Criminal Court, criminalizes, along with genocide, “the most serious crimes of concern to the international community.” Of relevance is Article 7(1)(g), which delineates crimes against humanity to include such crimes as “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity.”³⁶⁷

Slovakia has ratified all of these treaties and is therefore legally bound to uphold their provisions.³¹⁶ Most recently, on April 11, 2002, Slovakia ratified the Rome Statute of the International Criminal Court (Rome Statute of the ICC),³¹⁷ thereby pledging its cooperation with the International Criminal Court when its citizens or residents commit the most serious crimes, including genocide and crimes against humanity. In addition, the Universal Declaration of Human Rights (Universal Declaration)³¹⁸ is considered an authoritative international human rights instrument, although not a treaty. In order to monitor states’ compliance with these

treaties, UN committees have been established. These treaty monitoring bodies interpret the treaties and provide guidance to governments in meeting treaty obligations through the bodies' recommendations and comments.

Other international instruments that set human rights standards include the outcome documents of international conferences such as the United Nations International Conference on Population and Development (ICPD),³¹⁹ United Nations Fourth World Conference on Women (Beijing Conference)³²⁰ and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR).³²¹ The consensus documents that emerged from these conferences are not legally binding on states. However, by setting forth a detailed, global mandate on a particular issue concerning human development, these consensus documents contribute to advancing and interpreting the human rights standards contained in human rights treaties. Similarly, the declarations, decisions and reports of international bodies such as the United Nations provide important and influential guidance in understanding state obligations under international law. In the area of violence against women, the UN has adopted the following key documents that outline state responsibility: the Declaration on the Elimination of Violence against Women (Declaration on Violence against Women)³²² and the Reports of the Special Rapporteur on Violence against Women.³²³

In addition to setting the various international standards to which states must adhere, the European system has developed a body of regional standards that apply to Slovakia. The two main intergovernmental bodies within the region consist of the Council of Europe and the European Union (EU).

The Council of Europe was established in 1949 and currently has 44 member states that make several commitments upon gaining membership.³²⁴ Member states of the Council of Europe must accept the principle of the rule of law and must guarantee human rights and fundamental freedoms to everyone under their jurisdiction.³²⁵ Among its aims, the Council of Europe seeks to protect human rights, promote the rule of law, find solutions to problems facing European society such as discrimination against minorities, and support legal reform to achieve democratic stability.³²⁶ Slovakia has ratified the following treaties that have been adopted by the Council of Europe system:

- the European Convention on Human Rights and Fundamental Freedoms (European Convention on Human Rights);³²⁷
- the Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Medicine (European Convention on Human Rights and Biomedicine);³²⁸
- the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (European Convention against Torture);³²⁹
- the European Social Charter³³⁰ and the Revised European Social Charter;³³¹ and
- the Framework Convention for the Protection of National Minorities (Framework Convention for Minorities).³³²

In addition, states and individuals may bring complaints to the European Court of Human Rights, which was established under the European Convention on Human Rights³³³ to try violations of the treaty. The Court has developed a substantial body of jurisprudence interpreting human rights law and policy. Another important authority on the scope of states' obligations under the Council of Europe comes from the resolutions and recommendations of the Committee of Ministers, which acts as the Council's decision-making body.³³⁴ These recommendations are not binding.³³⁵

The EU, distinct from the Council of Europe, is a regional intergovernmental body dedicated to promoting European integration. Its principal objectives consist of the following: establishing European citizenship; ensuring freedom, security and justice; promoting economic and social progress; and asserting Europe's role in the world.³³⁶ While Slovakia is not yet a member of the EU, it is currently a candidate country that is scheduled to join the EU in 2004. As a candidate country, it is expected to accept the EU's legal and institutional framework, known as the *acquis*, and implement it nationally.³³⁷ Relevant EU treaties include the Treaty on European Union³³⁸ (also known as the Maastricht Treaty) and the Treaty of Amsterdam, which amended the former treaty.³³⁹ Also of importance is the Charter of Fundamental Rights of the European Union (Charter of Fundamental Rights),³⁴⁰ which has not yet been integrated into EU law and therefore has

inconclusive legal status, but which nonetheless has already begun to influence European human rights law and policy and is expected to play an increasingly significant role.³⁴¹ The judicial body that decides questions of EU law and policy is the European Court of Justice. The directives, recommendations and reports that come from the main EU bodies—the European Parliament, the Council of the European Union and the European Commission—also play a role in interpreting and applying human rights law and policy.

In addition to the above systems of regional law and policy, several other multi-lateral institutions in the European region issue policy documents that are instructive in understanding state responsibility in this area. Some of these sources include the reports and summit declarations of the Organization of Security and Cooperation in Europe (OSCE). In the area of health and patients' rights, the World Health Organization (WHO) Regional Office for Europe has developed a Declaration on the Promotion of Patients' Rights in Europe (WHO Declaration on Patients' Rights)³⁴² that has served as a framework for member states such as Slovakia.³⁴³

SLOVAKIA'S VIOLATION OF INTERNATIONAL, REGIONAL AND NATIONAL LAWS AND POLICIES

This section examines the international, regional and national legal standards violated by the Slovak government's provision of reproductive health care for Romani women, specifically including those standards relevant to (1) sterilization practices; (2) failure to provide full and accurate information; (3) discriminatory standards of care; (4) physical and verbal abuse; and (5) insufficient access to medical records. As documented by this report, Slovak government medical personnel are, in most cases, directly involved in the violations. In addition, the Slovak government's problematic policies regarding the Roma have contributed to the violations. Finally, the failure of the Slovak government to regulate the medical profession adequately and investigate and punish violations is also a clear infringement of international, regional and, in some cases, national law.

Sterilization Practices

Slovak doctors' practice of sterilizing Romani women without providing them with

truthful and complete information about the reasons for the sterilization and without obtaining their voluntary, informed consent has resulted in the violation of a number of human rights. As previously discussed, women are intimidated into consenting to sterilization under conditions that involve various types of coercion. Hospital personnel request consent at the last minute, without allowing adequate time for thought or discussion, often while the woman is on the delivery table while in pain; after she has been given anesthesia; and without her full understanding of the implications and permanence of the sterilization procedure. In some cases, there were clear-cut cases of forced sterilization, where the patients were not even asked for their consent, but were told or suspected afterward that the sterilization procedure had been performed. Doctors have a professional and legal duty to relay information in a manner that provides women with the opportunity to make an informed choice and that respects their dignity. Based on the findings and research set forth in this report, it is clear that state-employed doctors and other medical personnel have transgressed well-established international and regional human rights standards, with virtually no sanction by appropriate Slovak government officials.

INTERNATIONAL AND REGIONAL LAW AND POLICY

Coerced sterilization is a violation of various international human rights. This practice violates the principle of informed consent, one of the foundations of the practice of medicine and of the rights of patients. A number of rights support this principle either directly or derivatively, including the right to health, the right to bodily integrity and the right to reproductive self-determination. All of these rights are violated by the policies and practices of Slovak government doctors and other hospital personnel who have failed to promote and protect the reproductive rights of Romani women.

Right to Health

International law and policy repeatedly recognize the fundamental right to health.³⁴⁴ This affirmation is reiterated continually throughout regional law and policy as well.³⁴⁵ Treaty monitoring bodies have expounded on this right at length in their comments, recommendations and observations, and have linked it to issues of con-

sent. In its General Comment No. 14, the Committee on Economic, Social and Cultural Rights explains:

The right to health is not to be understood as a right to be *healthy*. The right to health contains both freedoms and entitlements. The freedoms include the right to control one's health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation. By contrast, the entitlements include the right to a system of health protection, which provides equality of opportunity for people to enjoy the highest attainable level of health.³⁴⁶

In its recommendation on Article 12 on health, the CEDAW Committee has described access to quality health services as those “. . . delivered in a way that ensures that a woman gives her fully informed consent, respects her dignity, guarantees her confidentiality and is sensitive to her needs and perspectives. States parties should not permit forms of coercion, such as non-consensual sterilization . . . that violate women's rights to informed consent and dignity.”³⁴⁷ In the context of Slovakia, the Committee on the Elimination of Racial Discrimination (CERD) has remarked on the low level of awareness of maternal health suffered by the Roma and recommended that Slovakia pursue measures so that the Roma enjoy the full right to health and health care.³⁴⁸

The ICPD Programme of Action specifically noted the importance of reproductive health care for women:

States should take all appropriate measures to ensure, on a basis of equality of men and women, universal access to health-care services, including those related to reproductive health care, which includes family planning and sexual health. Reproductive health-care programmes should provide the widest range of services without any form of coercion . . .³⁴⁹

Slovak health-care personnel have blatantly violated the standards set forth above regarding the right to health as well as the codes of professional medical prac-

tice by refusing to explain their reasons for performing cesareans and sterilizations and by failing to obtain the informed, voluntary consent of the women they sterilize. In addition, doctors in eastern Slovakia have violated their patients' right to health by using outdated medical practices related to cesareans and the sterilization of women who have had multiple C-sections.

Right to Bodily Integrity

In the case of Romani women who have been coercively sterilized, violation of the standard of informed consent implicates several human rights related to bodily integrity and self-determination. In the international arena, these rights include the right to life, liberty and security and the right not to be subject to torture or other cruel, inhumane or degrading treatment. These rights are guaranteed by several international and regional human rights instruments, including the Universal Declaration, the Civil and Political Rights Covenant, the Convention against Torture, and the European Convention on Human Rights.³⁵⁰ Another significant right is the right to privacy and family life, which is violated when coerced sterilization occurs. This right also finds support in both international and regional law.³⁵¹

The right to be free from torture and cruel, inhuman, and degrading treatment and punishment is violated absent informed consent during sterilization procedures. The Human Rights Committee, the treaty monitoring body of the Civil and Political Rights Covenant, has specifically noted that forced sterilization would be a practice that violates Article 7, which covers torture or cruel, inhuman or degrading treatment or punishment and free consent to medical and scientific experimentation.³⁵²

Among other human rights involving bodily integrity that are applicable here is the right to be free from violence, specifically gender-based violence. In its Declaration on Violence against Women, the UN General Assembly spells out this right and the concomitant duties of the state to take measures to protect women from violence.³⁵³ Those policies or practices that constitute violence against women and have an impact on reproductive rights are delineated in a 1999 report to the UN Economic and Social Council by the Special Rapporteur on Violence against Women, which includes a section on forced sterilization. The report explains: "A severe violation of women's reproductive rights, forced sterilization is a method of

medical control of a woman's fertility without the consent of a woman. Essentially involving the battery of a woman—violating her physical integrity and security, forced sterilization constitutes violence against women.”³⁵⁴

Right to Reproductive Self-Determination

At the core of reproductive rights lies the right to reproductive self-determination. Within international human rights law and policy, this right is defined as the right to decide the number and spacing of one's children and to have the information and means to do so.³⁵⁵ The UN committee that monitors CEDAW has defined the link between involuntary sterilization and this human right: “Compulsory sterilization . . . adversely affects women's physical and mental health, and infringes the right of women to decide on the number and spacing of their children.”³⁵⁶ The Committee proceeds to recommend that “. . . [s]tates parties should ensure that measures are taken to prevent coercion in regard to fertility and reproduction, and to ensure that women are not forced to seek unsafe medical procedures . . . because of lack of appropriate services in regard to fertility control. . . .”³⁵⁷ This latter recommendation is particularly relevant to the situation of Romani women in eastern Slovakia as they have been forced into accepting sterilizations that are not medically necessary and could be avoided through awareness and use of other contraceptive methods (see discussion below on “Failure to Provide Full and Accurate Information”).

Right to Informed Consent

Regional law and policy explicitly endorse the principle of informed consent. Chapter II on “Consent” of the European Convention on Human Rights and Biomedicine sets forth standards for issues of consent and declares the following:

1. Any intervention in the health field may only be carried out after the person concerned has given free and informed consent to it.
2. This person shall beforehand be given appropriate information as to the purpose and nature of the intervention as well as on its consequences and risks.
3. The person concerned may freely withdraw consent at any time.³⁵⁸

The EU's Charter of Fundamental Rights also promotes the right to "free and informed consent of the person concerned" in the field of medicine.³⁵⁹ In June 2002, the European Parliament voted in support of the Report on Sexual and Reproductive Health and Rights, which urges accession countries "to ensure that women and men can give their fully informed consent on contraceptive use, as well as on fertility awareness methods. . . ."³⁶⁰ The WHO Declaration on Patients' Rights requires informed consent as a prerequisite for any medical intervention and provides that the patient has a right to refuse or halt medical interventions.³⁶¹

NATIONAL LAW AND POLICY

By coercively sterilizing Romani women, Slovak health-care providers are violating an entire range of constitutionally protected rights. These rights include the right to health;³⁶⁸ the protection of parenthood and the right of pregnant women to special care;³⁶⁹ the right to human dignity and protection from illegal intervention in private and family life;³⁷⁰ the prohibition of torture and cruel, inhuman and degrading treatment;³⁷¹ and the right to personal freedom.³⁷² The Constitution's enumeration of these rights lays the foundation for the enactment and implementation of legal measures intended to protect these rights.

Right to Health

The preamble of the governmental decree on patients' rights (Charter on Patients' Rights) recognizes the right to health care "in cases of disease or its threat. . . ."³⁷³ The Health Care Law places perinatal care as part of the primary, secondary and subsequent health-care services.³⁷⁴ However, Slovakia has no specific reproductive health or family planning policy, nor does the current health policy adequately address women's health needs.³⁷⁵ Although there has been a governmental family planning information program for Roma,³⁷⁶ the program appears to have been culturally insensitive.³⁷⁷ The failure to institute effective reproductive health-care laws and policies is a violation of states' duties to ensure access to reproductive health services.

Right to Bodily Integrity

Among other laws, the Criminal Code and the Health Care Law, which regulates

the provision of health care including rights and responsibilities of health-care professionals, protect the right to bodily integrity. An intentional act causing injury to health or serious bodily harm is considered a crime under the Criminal Code,³⁷⁸ punishable by up to two years imprisonment or a fine for injury to health³⁷⁹ and two to eight years imprisonment for causing serious bodily harm.³⁸⁰ If the act is racially or ethnically motivated, then punishment increases.³⁸¹ If there is a grievous harm that leads to damage of an important organ, punishment is up to five years imprisonment;³⁸² if the victim dies as a consequence of this injury, punishment is up to twelve years imprisonment.³⁸³

The Criminal Code also punishes acts of negligence by employees, including doctors and other health-care professionals, who through breach of their professional duties and obligations damage the health or cause serious bodily harm or death to another. If the patient is injured or dies because the health-care professional fails to observe regulations governing his or her practice, the penalty ranges from six months to five years imprisonment and may include professional disqualification, depending upon the seriousness of the harm.³⁸⁴

The provision of the Criminal Code covering genocide³⁸⁵ would also be applicable if it were established that the current practice of coerced and forced sterilization targets Romani women. The definition of genocide in the Slovak Criminal Code follows closely that of the Genocide Convention and defines genocide as having the intention to completely or partially destroy a national, ethnic, racial or religious group through measures including those leading to the prevention of child-bearing in such a group.³⁸⁶ Genocide is punishable by twelve to fifteen years imprisonment or by an “exceptional punishment.”³⁸⁷

The laws described above could potentially protect women from such violations as forced sterilization, as well as in other areas of reproductive health. In practice, however, criminal adjudication of violations of reproductive rights of women, especially Romani women, have been rare and to date have failed to provide adequate protection. The Slovak government and law enforcement agencies in particular, have shown little interest in properly investigating and prosecuting reproductive rights abuses by doctors against Romani women (see Background section of this report for details on cases concerning allegations of forced sterilization).

The Health Care Law, although recognizing patients’ right to bodily integri-

ty,³⁸⁸ provides neither clear nor adequate substantive and procedural norms for individuals seeking remedies for violations of their rights by health-care professionals. It grants attending doctors or “special commissions” in hospitals the discretion on deciding the “rights and responsibilities” of their patients in connection with the provision of health care.³⁸⁹ If a patient disagrees with the decision, she can file an appeal with the director of the hospital, whose decision is final.³⁹⁰ The Charter on Patients’ Rights provides for a complaint procedure but it only sets forth to whom complaints can be addressed,³⁹¹ and does not provide further information on how complaints will be handled.

A patient who is not satisfied with the services of a doctor can also file a complaint with the Medical Chamber of Slovakia. The Chamber is an independent professional association that inter alia decides on disciplinary measures against doctors.³⁹² Generally, there are very few complaints filed with the Chamber. The majority of complaints come from institutions, such as the state prosecutors office, only about 10% are complaints against doctors by patients. The Chamber has the authority to essentially revoke the license of a doctor, but such instances are extremely rare.³⁹³

Right to Reproductive Self-Determination

The right to determine the number and spacing of one’s children is central to women’s autonomy. The Preamble to Slovakia’s Charter on Patients’ Rights, a decree promulgated by the Slovak government, recognizes this right by stating that patients’ rights are based on “human dignity, self-determination and autonomy.”³⁹⁴ However, there is no explicit law guaranteeing women their decision-making autonomy in the area of reproductive health and rights. The lack of explicit national legal and policy instruments to protect these rights negates women’s decision-making powers.

Right to Informed Consent

The right of individuals to make decisions in matters of reproduction and sexuality is directly linked to the right to informed consent. The Health Care Law³⁹⁵ and the Charter on Patients’ Rights³⁹⁶ provide some legal protection for these rights.

The Health Care Law requires doctors to obtain a patient’s consent for procedures that may have a substantial impact on a patient’s life.³⁹⁷ The law further

requires the consent to be in written form or “in another demonstrable way.”³⁹⁸ For minor patients, consent for “interventions that may materially impact patient’s further life” must be obtained from her legal guardian upon the recommendation of a group of at least three specialists appointed in advance by the head of the medical institution. Minor patients above the age of 16 who are sufficiently mature to assess the examination and treatment procedure and to make a decision about it must also give their consent to the procedure, together with a legal representative.³⁹⁹ In cases of emergency, no patient consent is required.⁴⁰⁰

Consent based on coercion and misinformation is not only in violation of the Health Care Law, but also violates the Civil Code, which makes consent invalid if it is obtained under duress or if consent was induced based on an erroneous fact.⁴⁰¹ While the above legal framework should provide some protection for ensuring informed consent, our research showed that these provisions are seldom adhered to in the case of the sterilizations of Romani women. The requirements of written or demonstrable consent are repeatedly ignored by doctors who orally tell Romani women that they will be sterilized or have been sterilized after the fact. The approval of specialists or legal guardians is not obtained for minors who are sterilized. Severe conditions of duress, such as obtaining signatures of women in pain, on the delivery table, under anesthesia, or without adequate explanation, also accompany the practice of coerced sterilization.

Failure to Provide Full and Accurate Information

The Slovak government is obligated under international human rights law to ensure that all Slovak women, including Romani women, are provided with full and accurate information concerning medical procedures and treatments. The government has a special duty to regulate the medical profession, both state-employed and private health-care personnel, given the profession’s key role in protecting and ensuring the health and lives of Slovak citizens. Patients have a right to receive and doctors have a duty, both as agents of the state and as medical professionals, to provide full and accurate information about various treatments that are available and suitable to their health status. Many Romani women were not given information as to why either cesareans or sterilizations were being performed. If they were told that sterilization was medically necessary to prevent future pregnancies, they were not

informed about other types of contraceptive methods. Automatically sterilizing Romani women without informing them of the reasons for doing so and of alternative methods to avoid pregnancy constitutes a violation of their right to information.

INTERNATIONAL AND REGIONAL LAW AND POLICY

The right to have full and accurate information about one's health status is integral to the enjoyment of other human rights, such as the right to health, self-determination and informed consent. Without knowledge about one's state of health, the exercise of these other rights becomes meaningless.

Right to Information

Several provisions in CEDAW endorse the right to information, particularly in matters of family planning. Article 10(h) requires states parties to take measures to guarantee access to “. . . information to help to ensure the health and well-being of families, including information and advice on family planning”; Article 14(2)(b) protects rural women's “. . . access to adequate health-care facilities, including information, counselling and services in family planning”; and Article 16(1)(e) ensures access to the “information, education and means” to enable women to exercise their right to decide the number and spacing of their children.⁴⁰² The CEDAW Committee has further elaborated on these rights: “Some reports disclose coercive practices which have serious consequences for women, such as forced . . . sterilization. Decisions to have children or not . . . must not . . . be limited by . . . Government. In order to make an informed decision about safe and reliable contraceptive measures, women must have information about contraceptive measures and their use, and guaranteed access to sex education and family planning services, as provided in article 10(h) of the Convention.”⁴⁰³

Regional treaties also promote the right to information in health matters.⁴⁰⁴ The explanatory report to the European Convention on Human Rights and Biomedicine specifies that the information that patients receive “. . . must be sufficiently clear and suitably worded for the person who is to undergo the intervention.”⁴⁰⁵ Some Romani women do not understand Slovak or the medical terminology of the doctors and are not provided with translators or comprehensible information. Moreover, “.

. . . the patient must be put in a position, through the use of terms he or she can understand, to weigh up the necessity or usefulness of the aim and methods of the intervention against its risks and the discomfort or pain it will cause.”⁴⁰⁶ However, Romani women are generally not given an opportunity to make their own decisions and are instead threatened into agreeing to sterilization or are simply told about the procedures that will be performed on their bodies.

Of particular relevance to the doctors and maternity wards in Slovak hospitals is the resolution by the Council of Europe’s Committee of Ministers recommending that member states integrate family planning services, including information and advice, “. . . within the public health system, preferably integrated in the maternal and child health setting [and] in the maternity hospitals . . .” and has urged making “. . . health and social professionals on all levels understand that family planning is a part of general health care and therefore part of their responsibilities. . . .”⁴⁰⁷ Most Slovak gynecologists at the hospital level place responsibility for information and counseling about family planning at the local level, thereby preventing Romani women who are sterilized in hospitals from receiving the information necessary to make an informed decision. The OSCE has also made recommendations to its member states for improving access to information and services pertaining to reproductive health care, especially in the provision of appropriate information and training to Romani women.⁴⁰⁸

The International Federation of Gynecology and Obstetrics (FIGO) has considered the special ethical issues involved in sterilization and has issued a statement on this matter that discusses the need for comprehensive information. One of its tenets states the following:

The process of informed choice must precede informed consent to surgical sterilisation. Recognised available alternatives, especially reversible forms of family planning which may be equally effective, must be given due consideration. The physician performing sterilisation has the responsibility of ensuring that the person has been properly counselled concerning the risks and benefits of the procedure and of its alternatives.⁴⁰⁹

The WHO Declaration on Patients’ Rights summarizes the content and meaning of this right:

Patients have the right to be fully informed about their health status, including the medical facts about their condition; about the proposed medical procedures, together with the potential risks and benefits of each procedure; about alternatives to the proposed procedures, including the effect of non-treatment; and about the diagnosis, prognosis and progress of treatment.⁴¹⁰

NATIONAL LAW AND POLICY

Right to Information

The provisions of the Health Care Law governing patients' right to information and doctors' obligations to provide information to patients are contradictory. On the one hand, the patient has a right to receive information on the diagnosis, prognosis, treatment, and risks involved in treatment.⁴¹¹ However, the law does not impose an explicit obligation on doctors to provide patients with full information about their medical condition; it grants the doctor discretion to decide the content of the information for the patient.⁴¹² Doctors are required to provide a "full explanation" only if the medical procedure is considered "serious" or "uncurable [sic]" and the patient explicitly requests a "full explanation."⁴¹³ The Charter on Patient's Rights also grants the right of the patient to be informed but places the onus on the patient to request this information and does not oblige doctors to provide it.⁴¹⁴ In addition, even if women were provided with full and accurate information on their reproductive status and the variety of contraceptives available to them to prevent pregnancy, Slovak reproductive health policies fall short—the only contraceptive accessible to low-income women would be sterilization since it is the only type that is subsidized for women who should not get pregnant because of a medical indication.⁴¹⁵

Discriminatory Standards of Care

Holding separate hours for Romani women at local gynecologist offices and segregating Romani from non-Romani women in the many maternity wards in eastern Slovak government hospitals violates numerous international and regional human rights instruments, particularly those relating to the right to equality and non-discrimination. Explanations based on hygiene or social status are not adequate justifications for a de facto policy of racial segregation.

INTERNATIONAL LAW AND POLICY

Right to Equality and Non-Discrimination

The rights to equality and non-discrimination are the bedrock of human rights doctrine. Discrimination on the basis of race, ethnicity or color is prohibited by the UN Charter⁴¹⁶ and multiple human rights instruments.⁴¹⁷ However, the seminal treaty in this area is the Convention against Racial Discrimination (CERD), which defines “racial discrimination” as “. . . any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”⁴¹⁸ The CERD, the committee that monitors this treaty, has issued a general recommendation focusing on measures for states parties to take to eliminate discrimination against Roma. In the health sector, it recommends that states “. . . ensure Roma equal access to health care . . . and to eliminate any discriminatory practices against them in this field.”⁴¹⁹ Segregating Romani from non-Romani women represents one of the worst and clearest forms of racial discrimination.

Racial discrimination may be compounded when practiced against women, who have to deal with the double burden of racial and gender discrimination. CERD has acknowledged this disparate effect on women: “The Committee notes that racial discrimination does not always affect women and men equally or in the same way. There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men . . . Certain forms of racial discrimination may be directed towards women specifically because of their gender, such as . . . the coerced sterilization of indigenous women. . . .”⁴²⁰ The outcome document of the WCAR further acknowledges the duty of states to apply a gender perspective to eradicating racial discrimination.⁴²¹

A long line of European treaties protects against racial discrimination and upholds equality.⁴²² Of particular importance are the Framework Convention for Minorities and Protocol 12 of the European Convention on Human Rights. The Framework Convention for Minorities requires states parties to “guarantee to persons belonging to national minorities the right of equality before the law and of equal

protection of the law” and to “. . . take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.” In its Opinion on Slovakia, the Advisory Committee to the Convention expressed its concern about “. . . *de facto* discrimination in particular against Roma in various fields ranging from health-care facilities to education . . . and considers that the Government should monitor and react to cases of discrimination in a more effective manner.”⁴²³ Similarly, the Council of Europe’s Committee of Ministers also found that Slovakia was lagging in its implementation of the Framework Convention for Minorities with respect to Roma and recommended that Slovakia strengthen and implement its legal guarantees.⁴²⁴ Protocol 12, which has been signed but not ratified by Slovakia, outlines a general prohibition against discrimination with respect to any right set forth by law on the grounds of race.⁴²⁵

A number of provisions found in official EU documents protect against racial discrimination. As a starting point, the EU regards “respect for minorities” as one of the four political criteria for EU accession.⁴²⁶ Especially significant is the Council of the European Union Directive 2000/43/EC (also known as the Race Directive), which requires member states and candidate countries to pass appropriate legal and policy measures to combat racial or ethnic discrimination and to promote the principle of equal treatment.⁴²⁷ The Race Directive applies to both the public and private sector and includes the field of “social protection, including social security and health care.”⁴²⁸ Therefore, health-care personnel at both the hospital and local level should be subject to sanctions for racially motivated discrimination against Romani women. In its 2002 Regular Report on Slovakia’s Progress Towards Accession, the EU found that Slovakia continued to face a gap between policy formulation and its implementation on the ground with respect to the Roma minority.⁴²⁹ It found that Roma encountered obstructions in accessing public utilities and social services, and identified health care as an area of particular concern.⁴³⁰

The OSCE has issued statements against and findings of discrimination against Roma.⁴³¹ It has identified widespread discrimination and prejudicial attitudes in the field of health care and urges states to “do much more to ensure adequate housing and good health for Roma, who suffer amongst the worst conditions in Europe,” with special attention being given to Romani women.⁴³² It recommends that “[i]n

order to ensure that Roma enjoy equal access to public health care, efforts should be made to ensure that discrimination in the provision of health services is eliminated at all levels.”⁴³³

NATIONAL LAW AND POLICY

Right to Equality and Non-Discrimination

The Constitution affirms the principles of equality and guarantees fundamental rights to every person regardless of “sex, race, color of skin, language. . . .”⁴³⁴ While the Charter on Patients’ Rights affirms the principle of equality and non-discrimination,⁴³⁵ the Health Care Law does not, leaving in question the commitment of the Slovak government to ensuring health care on a basis of equality and non-discrimination. In addition, while the European Union requires its member and candidate countries to pass specific antidiscrimination legislation, Slovakia has yet to do so.⁴³⁶

Slovakia has established several institutions addressing general issues related to minorities and Roma rights in particular.⁴³⁷ The Office of the Deputy Prime Minister for Human Rights, Minorities and Regional Development has supported the adoption of antidiscrimination legislation and had led the development of a Strategy on Roma (Strategy of the Government of the Slovak Republic for the Solution of the Problems of the Romani National Minority). Within this office is the Plenipotentiary of the Government of the Slovak Republic for Addressing the Issues of Roma. The Plenipotentiary is intended in part to bridge the gap between the government and Romani organizations and to raise issues of concern in the Romani community to the government. It is also mandated in part to coordinate among the relevant ministries the national strategy for the Roma and to mobilize Romani non-governmental organizations in support of the strategy.⁴³⁸ Coordination among the ministries on Romani issues, however, is weak.⁴³⁹ The Office however does not have the mandate to investigate claims of discrimination nor to effectively implement the strategy. In addition, the strategy does not clearly and concretely address prevention, prohibition and eradication of discrimination.⁴⁴⁰

The Parliament approved the institution of an ombudsman for human rights in December 2001. The first ombudsman was appointed in March 2002. The ombudsman has the authority to investigate potential violations by some state agents, includ-

ing health-care personnel. The office, however, has no enforcement power. It is too early to assess the effectiveness of the activities of the Ombudsman.⁴⁴¹ The 2002–2003 draft action plan for the Prevention of All Forms of Discrimination by the Office of the Deputy Prime Minister includes recommendations to the Ministry of Health to train health-care workers in preventing discrimination and to provide equal treatment to patients.⁴⁴² This draft action plan does not include any plan for systematically monitoring, investigating or sanctioning cases of discrimination.

While Slovakia is a party to several international and regional treaties that guarantee women's rights and although its constitution secures rights without regard to sex, the country has yet to implement effective institutional mechanisms for the advancement of women. The few women or gender-related structures that are in place are unknown and weak.⁴⁴³ Lacking in Slovakia is a women's commission with adequate resources and power to investigate violations, propose and influence legislation, and pursue remedies.

Physical and Verbal Abuse

The prevalence of physical and verbal abuse against Romani women in government hospitals of eastern Slovakia constitutes a serious breach of the prohibition of inhuman and degrading treatment, as guaranteed by a number of international treaties as well as the Slovak Constitution and other legal provisions.

INTERNATIONAL AND REGIONAL LAW AND POLICY

Right to Physical and Psychological Integrity

Verbal and physical abuse results in the infraction of many of the human rights discussed above. Infringement on one's physical and psychological integrity involves violations of several rights that are secured by international and regional law: the right to health; the right to life, liberty, and security of the person; the right to be free from torture and cruel, inhuman and degrading treatment and punishment; and the right to be free from violence.⁴⁴⁴ In addition, abuse motivated by one's racial or ethnic origins violates the rights to equality and non-discrimination.⁴⁴⁵

These rights are interpreted broadly and encompass more than violations of physical integrity. The right to health embraces both physical and mental health.⁴⁴⁶

The UN Declaration on Violence against Women defines violence as including “physical, sexual and psychological” violence.⁴⁴⁷ CERD has specifically noted that speech that is motivated by “racial superiority or hatred” is prohibited under international law and the state has a duty to curtail such abuse.⁴⁴⁸ Racial epithets and other verbal abuses by Slovak doctors and nurses fall under this category. The Special Rapporteur on Promotion and Protection of the Right to Freedom of Opinion and Expression has further elaborated as follows:

“63. . . . The Special Rapporteur is aware of, and concerned at, the potential harm, whether psychological or physical, which can result from hate speech, in particular incitement to violence, heightened tensions between groups of different cultural, ethnic, racial and religious identities, and perpetuation of stereotypes.

64. . . . As such, and in accordance with the relevant international standards, the Special Rapporteur wishes to condemn any advocacy of national, racial or religious hatred that constitutes an incitement to discrimination, hostility or violence; such advocacy should be prohibited by law.”⁴⁴⁹

NATIONAL LAW AND POLICY

Right to Physical and Psychological Integrity

The constitution establishes the right of the individual not to be subject to torture or cruel, inhuman, or humiliating treatment.⁴⁵⁰ The Health Care Law implements these rights by requiring doctors, nurses and other health-care professionals to respect the rights of patients to “physical and mental integrity.”⁴⁵¹

Slovakia’s Civil Code also protects the right of the individual to “life and health, civil reputation and human dignity, as well as privacy, name and other personal features.”⁴⁵² Criminal Code provisions discussed above (see section on Coerced, Forced and Suspected Sterilization) also intend to protect the right to physical and psychological integrity. In addition, the Charter on Patients’ Rights grants patients the right to be treated with dignity⁴⁵³ and the right “. . . to health care marked by high professionalism . . . as well as by a dignified, ethical and human approach.”⁴⁵⁴

Insufficient Access to Medical Records

The hospitals' refusal to allow patients or their legal counsel to access their medical records is in contravention of international and regional law and policy. Even when patients or their attorneys followed the instructions of the law or of the hospital, the hospitals denied access. Moreover, there was no other body to appeal to for any arbitrary or unfair denials of access. To date, the Ministry of Health has refused to intervene and has affirmed the hospitals' right to refuse access.

INTERNATIONAL AND REGIONAL LAW AND POLICY

Right to Medical Information

An individual's right to access his or her medical records is essential to notions of autonomy, informed and responsible decision-making, and open and just societies. European law and policy upholds this right to information that is located in one's medical records. Article 10(2) of the European Convention on Human Rights and Biomedicine states that "[e]veryone is entitled to know any information collected about his or her health."⁴⁵⁵ The explanatory report to this article defines this right to know broadly: ". . . [it] encompasses all information collected about his or her health, whether it be a diagnosis, prognosis or any other relevant fact."⁴⁵⁶ Romani women who tried to access their records to investigate their reproductive status were turned away. Such refusal by hospital personnel to permit patients to view their own records violates European law.

The right to access one's own medical information is reinforced in the WHO Declaration on Patients' Rights, which declares, "Patients have the right of access to their medical records and technical records and to any other files and records pertaining to their diagnosis, treatment and care and to receive a copy of their own files and records or parts thereof."⁴⁵⁷ A general right of access to personal data is guaranteed in the Charter of Fundamental Rights, which allows everyone the ". . . right of access to data which has been collected concerning him or her. . . ."⁴⁵⁸

Right to Non-Interference in One's Privacy

The right not to be subjected to unlawful interference with one's privacy constitutes

another human right that supports the right to access records concerning one's medical treatment and status. Both the Civil and Political Rights Covenant and the Universal Declaration guarantee this right under international law.⁴⁵⁹ The corresponding regional instrument that protects the right to non-interference in one's private and family life is the European Convention on Human Rights, Article 8.⁴⁶⁰ The European Court of Human Rights has reviewed cases dealing with access to one's records under Article 8.⁴⁶¹ Most recently, the Court decided that refusal by a state to grant full access to an applicant's social service records resulted in an Article 8 violation.⁴⁶² The Court also concluded that the state failed to fulfill its positive obligation to protect the applicant's private and family life when he had no appeal to an independent body when denied access.⁴⁶³

NATIONAL LAW AND POLICY

Right to Medical Information

Health documentation is recognized in the Health Care Law as an "inseparable part of the provision of health care"⁴⁶⁴ requiring health-care providers to keep complete written records of patients' health status.⁴⁶⁵ Individuals' right to access their medical documentation is governed by Article 16 of the Health Care Law, which states, "Patient, his/her legal representative or a person who has a minor in his/her foster care, shall be entitled to inspect the health documentation and to make extracts of it on the spot . . ."⁴⁶⁶ A similar right to access medical documentation for patients is expressed in the Charter on Patients' Rights.⁴⁶⁷ Additionally, patients may be represented by an individual or legal entity—their legal counsel—through awarding a power-of-attorney according to the Civil Code, which lists the criteria for such.⁴⁶⁸ Certain laws may specifically exclude a possibility of power-of-attorney,⁴⁶⁹ but these restrictions must be explicitly imposed by the law. Despite the explicit right of patients or their legal counsel to access their records, the legislation lacks procedures for practical implementation of these rights. In addition, hospitals also lack policies governing practical issues of access to medical records. Denying a patient or his or her authorized legal counsel access to medical records also has the effect of limiting an individual's ability to seek redress in cases of potential medical malpractice or criminal acts.



Conclusion

The right to have control over one's reproduction is a fundamental human right that has been denied to Romani women in Slovakia. Many Romani women unwittingly become victims of insidious, discriminatory behavior when they seek maternal health care in their public health systems. Their rights to informed consent to sterilization, accurate and comprehensive health information, non-discriminatory health services, and unimpeded access to their medical records have been blatantly violated. Romani women endure severe discrimination that is exacerbated by the intersection of their gender and racial identities. The inevitable results of such oppression are the extensive and unchecked human rights violations against them that are occurring in Slovakia today.

This report has aimed to document the treatment of Romani women seeking reproductive health care. It sets forth the abuses that we uncovered during a roughly three-month fact-finding mission and explains how they violate national, regional and international legal standards. It seeks to inform and suggest recommendations to various national and international actors with the aim of encouraging them to investigate, remedy and eradicate the violations. In the end, this report seeks to be a useful advocacy tool to raise awareness of and thereby change the alarming conditions of Romani women living in Slovakia.

Endnotes

- 1 For the purposes of this report, we generally refer to instances when women were coerced to agree to sterilization as ‘coerced sterilization’ and instances when women were unaware that they would be sterilized before they underwent the procedure, as ‘forced sterilization.’
- 2 For the purposes of this report, we generally refer to instances when women were coerced to agree to sterilization as ‘coerced sterilization’ and instances when women were unaware that they would be sterilized before they underwent the procedure, as ‘forced sterilization.’
- 3 List of settlements: Bačkov, Bystrany, Chmiňany, Chminianske Jakubovany, Dlhé Stráže, Drahňov, Dravce-Bukovinka, Hermanovce ov, Housing site Stará tehelnia in Prešov, Hrabské, Hranovnica, Jabložov, Jarovnice, Jasov, Kecerovce, Kravany, Kurov, Lenartov, Letanovce, Malcov, Markušovce, Medzev, Ostrovany, Parchovany, Podhorany, Rakúsy, Richnava, Romani ghetto in the Košice City Part Luník IX, Romani ghetto in the Košice City Part Nad jazerom – Golianova street, Romani ghetto in Krompachy city, Švedlár, Romani ghetto in Nálepkovo city, Rudňany, Sačurov, Soľ, Stráne pod Tatrami Svinia, Vtáčkovce, Žehra, Zborov.
- 4 List of hospitals: 1st Gynecological and Obstetrician Clinic of University Teaching Hospital and Medical School of Comenius University (I.Gynekologicko-pôrodnická klinika FN a LFUK) Bratislava – Zochova street; Hospital of Eastern Slovakia Steel Company (VSŽ Nemocnica, a.s.) Košice – Šaca [hereinafter “Šaca hospital”]; Hospital with Health Centre (NsP) Bardejov [hereinafter “Bardejov hospital”]; Hospital with Health Centre (NsP) Gelnica [hereinafter “Gelnica hospital”]; Hospital with Health Centre (NsP) Kežmarok [hereinafter “Kežmarok hospital”]; Hospital with Health Centre (NsP) Krompachy [hereinafter “Krompachy hospital”]; Hospital with Health Centre (NsP) Levoča [hereinafter “Levoča hospital”]; Hospital with Health Centre (NsP) Poprad [hereinafter “Poprad hospital”]; Hospital with Health Centre (NsP) Ružinov – Bratislava [hereinafter “Ružinov Hospital”]; Hospital with Health Centre (NsP) Spišská Nová Ves [hereinafter “Spišská Nová Ves hospital”]; Hospital with Health Centre (NsP) Vranov nad Topľou [hereinafter “Vranov hospital”]; 2nd Gynecological and Obstetrician Clinic of Medical School of Pavel Jozef Šafárik University (II. Gynekologicko-pôrodnická klinika LF UPJŠ) Košice – Moyzesova st. [hereinafter “Hospital at Moyzesova st., Košice”]; University Teaching Hospital with Health Centre (FNsP) Košice [hereinafter “UTH Košice”]; University Teaching Hospital with Health Centre of J.A.Reiman (FNsP J.A. Reimana) Prešov [hereinafter “UTH Prešov] Note: there are two maternity wards in UTH Prešov: Women Department II. Surgical Monoblock (Ženské oddelenie II. Chir.monoblok) – in this report referred to as “New Maternity Prešov” and Women Department I. Old Maternity (Ženské oddelenie I. Stara pôrodnica) referred to as “Old Maternity Prešov;” and University Teaching Hospital of Luis Pasteur (FN Luisa Pasteura) Košice [hereinafter “Luis Pasteur UTH Košice”].
- 5 See CENTRAL INTELLIGENCE AGENCY (CIA), UNITED STATES OF AMERICA, THE WORLD FACTBOOK 2002: SLOVAKIA, available at <http://www.cia.gov/cia/publications/factbook/geos/lo.html> (last visited Dec. 3, 2002) [hereinafter THE WORLD FACTBOOK 2002].
- 6 See M. VASECKA, COUNTRY REPORT ON MINORITY RIGHTS IN PRE-EU ACCESSION: SLOVAKIA INSTITUTE FOR PUBLIC AFFAIRS 3 (2001), available at http://www.ivo.sk/subory/country_report_mnr.pdf (last visited Dec. 29, 2002).
- 7 See e.g., WORLD BANK, SLOVAK REPUBLIC LIVING STANDARDS, EMPLOYMENT AND LABOR MARKET STUDY 101-103 (2002) [hereinafter WORLD BANK, SLOVAK REPUBLIC LIVING STANDARDS STUDY].
- 8 See THE WORLD FACTBOOK 2002, *supra* note 5.
- 9 See The Slovak Republic Government Office, *Slovakia and European Union*, at http://www.vlada.gov.sk/eu/Integracia/en_vztahy.html (last visited Dec. 28, 2002).
- 10 See European Union, *Glossary: Accession Criteria (Copenhagen Criteria)*, at

- <http://www.cia.gov/cia/publications/factbook/geos/lo.html> (last visited Dec. 29, 2002).
- 11 See *id.*
- 12 See *id.*
- 13 See *id.*
- 14 Press Release, Copenhagen European Council, Presidency Conclusions, SR No. 400/02 (Dec. 12, 2002), available at <http://ue.eu.int/pressData/en/ec/73774.pdf> (last visited Dec. 29, 2002).
- 15 See THE WORLD FACTBOOK 2002, *supra* note 5.
- 16 See *id.*
- 17 See VASECKA, *supra* note 6, at 3.
- 18 See DENA RINGOLD, THE WORLD BANK, ROMA AND THE TRANSITION IN CENTRAL AND EASTERN EUROPE: TRENDS AND CHALLENGES 1, 4 (2002), available at [http://lnweb18.worldbank.org/eca/eca.nsf/Attachments/ROMA+AND+THE+TRANSITION+IN+CENTRAL+AND+EASTERN+EUROPE:+TRENDS+AND+CHALLENGES/\\$File/Roma.pdf](http://lnweb18.worldbank.org/eca/eca.nsf/Attachments/ROMA+AND+THE+TRANSITION+IN+CENTRAL+AND+EASTERN+EUROPE:+TRENDS+AND+CHALLENGES/$File/Roma.pdf) (last visited Dec. 3, 2002).
- 19 Eleonora Sandor, *Slovak Population Census 2001: The Politics of Ethnicity*, 13 TRANSITION NEWSL. 34, 35 (Jan.-Feb. 2002), available at <http://www.worldbank.org/transitionnewsletter/pdf/JanFeb2002.pdf> (last visited Dec. 28, 2002) [hereinafter Sandor].
- 20 See VASECKA, *supra* note 6, at 4; See also Report on Slovakia's Application for Membership of the European Union and the State of Negotiations, Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, European Parliament, COM(2000) 711 final at 14 [hereinafter Weirisma Report]; European Roma Rights Center (ERRC), *Factsheet: Roma in the Slovak Republic* (1999), at <http://errc.org/publications/factsheets/slovakrepublic.shtml> (last visited Dec. 28, 2002).
- 21 See Sandor, *supra* note 19, at 34.
- 22 See WORLD BANK, SLOVAK REPUBLIC LIVING STANDARDS, *supra* note 7, at 101-103.
- 23 See ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE (OSCE), REPORT ON THE SITUATION OF ROMA AND SINTI IN THE OSCE AREA 125 (2000) [hereinafter OSCE, REPORT ON THE SITUATION OF ROMA]; See JOYCE SCHOON, COLLABORATION UNICEF AND ROMANI CRISS, IMPROVING PRIMARY HEALTH CARE: PUBLIC HEALTH AND SOCIO-CULTURAL RESEARCH WITH ROMA COMMUNITIES IN ROMANIA, DESCRIPTION AND EVALUATION OF THE LOCAL PRIMARY HEALTH CARE PROJECTS IN ROMANIA para. 5.2 (Bucharest, May 1998) which revealed that in Balta Arsa, Romania Romani women tended to be unaware of the need to modify their lifestyle during pregnancy, including in terms of food, vitamin intake, physical effort and work.
- 24 See OSCE, REPORT ON THE SITUATION OF ROMA, *supra* note 23, at 125.
- 25 See OPEN SOCIETY INSTITUTE (OSI), MONITORING THE EU ACCESSION PROCESS: MINORITY PROTECTION IN SLOVAKIA 448 (2001), available at http://www.eumap.org/reports/content/10/703/minority_slovakia.pdf (last visited Dec. 29, 2002) [hereinafter OSI, MINORITY PROTECTION IN SLOVAKIA].
- 26 See VASECKA, *supra* note 6, at 4-5.
- 27 See WORLD BANK, SLOVAK REPUBLIC LIVING STANDARDS STUDY, *supra* note 7, at 101.
- 28 See *id.* at 121.
- 29 See *id.* at 101.
- 30 See Law 52/1998 of the Coll. On Protection of Personal Data in Information Systems, art. 8, paras. 1-2 Zákon o ochrane osobných údajov v informacných systémoch.
- 31 See INA ZOON, ON THE MARGINS: SLOVAKIA-ROMA AND PUBLIC SERVICES IN SLOVAKIA 4, 57-58 (2001); See also OSI, MINORITY PROTECTION IN SLOVAKIA, *supra* note 25, at 448.
- 32 See ZOON, ON THE MARGINS: SLOVAKIA, *supra* note 32, at 58-60.

- 33 See RINGOLD, *supra* note 18, at 21; See also OSCE, REPORT ON THE SITUATION OF ROMA, *supra* note 23, at 125.
- 34 See RINGOLD, *supra* note 18, at 20–21.
- 35 According to a 1999 UNICEF Report, women's reproductive health status has experienced a decline in all of the former communist states in East Central Europe. See generally UNICEF, THE MONEE PROJECT, REGIONAL MONITORING REPORT, WOMEN IN TRANSITION (1999); See also INTERNATIONAL HELSINKI FEDERATION FOR HUMAN RIGHTS, WOMEN 2000: AN INVESTIGATION INTO THE STATUS OF WOMEN'S RIGHTS IN CENTRAL AND SOUTH-EASTERN EUROPE AND THE NEWLY INDEPENDENT STATES 400 (2000) [hereinafter WOMEN 2000].
- 36 See WOMEN 2000, *supra* note 35, at 400; See also group interview, Jasov Settlement, Slovakia (Aug. 27, 2002); See also ZOON, ON THE MARGINS: SLOVAKIA, *supra* note 31, at 58.
- 37 Historical background and persecution of the Roma in Europe has been well reported in publications by the academics, international agencies and non-governmental organizations. See generally RINGOLD, *supra* note 18; HUMAN RIGHTS WATCH, STRUGGLING FOR ETHNIC IDENTITY: CZECHOSLOVAKIA'S ENDANGERED GYPSIES (1992); OSCE, REPORT ON THE SITUATION OF ROMA, *supra* note 23; MARCIA ROOKER, INTERNATIONAL SUPERVISION OF PROTECTION OF ROMANY PEOPLE IN EUROPE (2002).
- 38 See 2002 REGULAR REPORT ON SLOVAKIA'S PROGRESS TOWARDS ACCESSION 31 (2002), available at http://europa.eu.int/comm/enlargement/report2002/sk_en.pdf (last visited Dec. 16, 2002) [hereinafter 2002 REGULAR REPORT].
- 39 See OSCE, REPORT ON THE SITUATION OF ROMA, *supra* note 23, at 120; See also WORLD BANK, SLOVAK REPUBLIC LIVING STANDARDS STUDY, *supra* note 7, at 106–107.
- 40 See ZOON, ON THE MARGINS: SLOVAKIA, *supra* note 31, at 5.
- 41 See EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI), COUNCIL OF EUROPE, SECOND REPORT ON SLOVAKIA, ¶ 33 (2000) [hereinafter ECRI, SECOND REPORT].
- 42 See BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T OF STATE, SLOVAK REPUBLIC COUNTRY REPORT ON HUMAN RIGHTS PRACTICES FOR 2001 § 5 (2002), available at <http://www.state.gov/g/drl/rls/hrrpt/2001/eur/8338.htm> (last visited Dec. 16, 2002) [hereinafter U.S. STATE DEP'T, SLOVAK REPUBLIC HUMAN RIGHTS REPORT 2001]; See also WORLD BANK, SLOVAK REPUBLIC LIVING STANDARDS STUDY, *supra* note 7, at 105; ECRI, SECOND REPORT, *supra* note 41, ¶ 33.
- 43 See WORLD BANK, SLOVAK REPUBLIC LIVING STANDARDS STUDY, *supra* note 7, at 105.
- 44 See U.S. STATE DEP'T, SLOVAK REPUBLIC HUMAN RIGHTS REPORT 2001, *supra* note 42, § 2(d); See also OSI, MINORITY PROTECTION IN SLOVAKIA, *supra* note 25, at 455.
- 45 See OSI, MINORITY PROTECTION IN SLOVAKIA, *supra* note 25, at 455, citing Project on Ethnic Relations, *Political Participation and the Roma in Hungary and Slovakia*, 3–4 July 1998, Kosice, Slovakia.
- 46 See European Roma Rights Center (ERRC), *Discrimination in the Slovak Judicial System*, 1 ROMA RIGHTS 106, 106–108 (2002) [hereinafter ERRC, *Discrimination in the Slovak Judicial System*]; See also U.S. STATE DEP'T, SLOVAK REPUBLIC HUMAN RIGHTS REPORT 2001, *supra* note 42, § 5.
- 47 See *id.*; See generally EUROPEAN ROMA RIGHTS CENTER (ERRC), TIME OF THE SKINHEADS: DENIAL AND EXCLUSION OF ROMANI IN SLOVAKIA (1997).
- 48 See generally OSI, MINORITY PROTECTION IN SLOVAKIA, *supra* note 25.
- 49 See *id.* at 432; See also U.S. STATE DEP'T, SLOVAK REPUBLIC HUMAN RIGHTS REPORT 2001, *supra* note 42, § 5.
- 50 See ZOON, ON THE MARGINS: SLOVAKIA, *supra* note 31, at 1–2; See also U.S. STATE DEP'T, SLOVAK REPUBLIC HUMAN RIGHTS REPORT 2001, *supra* note 42, § 5.
- 51 See OSI, MINORITY PROTECTION IN SLOVAKIA, *supra* note 25, at 433, citing to Documentation

- Centre for Research of the Slovak Society, DCVSS survey, 1995.
- 52 See *id.*, citing to NARODNA OBRODA 2 (Dec. 28, 1999) and SME 2 (Dec. 28, 1999).
- 53 See *id.* at 434.
- 54 See Harold Tanner, *The Roma Persecution*, at <http://www.geocities.com/Paris/5121/porraimos.htm> (last visited Dec. 30, 2002).
- 55 See United States Holocaust Memorial Museum, *Germany 1933-1936*, at <http://www.ushmm.org/olympics/zca005.htm> (last visited Dec. 30, 2002); See also United States Holocaust Memorial Museum, *Foundations of Nazi Racism*, at <http://www.ushmm.org/outreach/racischr.htm> (last visited Dec. 30, 2002).
- 56 See United States Holocaust Memorial Museum, *Genocide of European Roma*, at <http://www.ushmm.org/topics/article.php?ModuleId=10005219> (last visited Dec. 16, 2002); See generally DAVID M. CROWE, A HISTORY OF THE GYPSIES OF EASTERN EUROPE AND RUSSIA (1994); IAN HANCOCK, THE PARIAH SYNDROME: AN ACCOUNT OF GYPSY SLAVERY AND PERSECUTION (1987).
- 57 See generally CROWE, *supra* note 56; ISABEL FONSECA, BURY ME STANDING: THE GYPSIES AND THEIR JOURNEY (1995); ANGUS FRASER, THE GYPSIES (1992); HANCOCK, *supra* note 56.
- 58 See RUBEN PELLAR AND ZYBNĚK ANDRŠ, STATISTICAL EVALUATION OF THE CASES OF SEXUAL STERILIZATION OF ROMANI WOMEN IN (EAST) SLOVAKIA—APPENDIX TO THE “REPORT ON THE EXAMINATION IN THE PROBLEMATICS OF SEXUAL STERILIZATION OF ROMANIES IN CZECHOSLOVAKIA” 6 hereinafter PELLAR & ANDRŠ].
- 59 See HRW, CZECHOSLOVAKIA’S ENDANGERED GYPSIES, *supra* note 37, at 20, citing to Material Designated for the Deliberation of the Governmental Commission of the Slovak Socialist Republic for Question of Gypsy Inhabitants [Material urceny na rokovanie Komisie Vldy SSR pre otázky ciganských obyvateľov] No. SKC 6406/77 (1977).
- 60 See *id.* at 20.
- 61 See *id.*
- 62 The term “Gypsy” is often used as a derogatory term by non-Roma.
- 63 See *id.* at 20-21, citing to Material Designated for the Deliberation of the Governmental Commission of the Slovak Socialist Republic for Question of Gypsy Inhabitants [Material urceny na rokovanie Komisie Vldy SSR pre otázky ciganských obyvateľov] No. SKC 6406/77 (1977).
- 64 See *id.* at 145-146, citing to Public Notice 151/152 of the Ministry of Health and Social Affairs of the Czech Socialist Republic paras. 31 & 31 (Sept. 8, 1988).
- 65 *Id.* at 146, citing to para. 35.
- 66 See *id.* at 21.
- 67 See *id.* at 146, citing to Public Notice 151/152 of the Ministry of Health and Social Affairs of the Czech Socialist Republic paras. 31(3) (Sept. 8, 1988).
- 68 See PELLAR & ANDRŠ, *supra* note 58, at 6.
- 69 See *id.*
- 70 See HRW, CZECHOSLOVAKIA’S ENDANGERED GYPSIES, *supra* note 37, at 29-30, citing Dr. Polsuch and Dr. Polsluchova, *The Problems of Planned Parenthood among Gypsy Fellow-citizens in the Eastern Slovakian Region*, 39 ZDRAVOTNICKA PRACOVNICE 220, 220-223 (1989).
- 71 See *id.*
- 72 See ZÁVAZNÉ NARIADENIE O STERILIZÁCI [STERILIZATION REGULATION], Reg. No. 4 582/1972-B/1, 9/1972 Coll.LL, art. 5(1) (Apr. 14, 1972) [hereinafter STERILIZATION REGULATION].
- 73 See HRW, CZECHOSLOVAKIA’S ENDANGERED GYPSIES, *supra* note 37, at 22.
- 74 See *id.*
- 75 See *id.*
- 76 See *id.* at 29.
- 77 See *id.* at 32.

78 See *id.* at 20.

79 Charter 77 in 1990, document On Sterilization of Roma Women, Document of the Charter 77, No. 3/1990 from Jan. 28, 1990 (signed by spokesmen of Charter 77 Miroslav Lehky et al.); See also HRW, CZECHOSLOVAKIA'S ENDANGERED GYPSIES, *supra* note 37, at 20.

80 Charter 77 in 1990, document On Sterilization of Roma Women, Document of the Charter 77, No. 3/1990 from Jan. 28, 1990 (signed by spokesmen of Charter 77 Miroslav Lehky et al.).

81 See the Decree of the General State prosecutor of the Slovak Republic, No. III/2 Gn 482/90 from 16 Jan. 1991, signed by JUDr. Magvašiová, General State Prosecutor of the Slovak Republic.

82 See HRW, CZECHOSLOVAKIA'S ENDANGERED GYPSIES, *supra* note 37, at 33.

83 See *id.* at 33-34, citing to Decision Number CSV:VV 47/1991, District Examining Office of the Police Corps of the Slovak Republic, Presov, Sept. 30, 1991.

84 See Posting of JUDr. Ján Hrubala, hrubala@changenet.sk, to Public Interest Law Network Listserv (Aug. 14, 2002), available at <http://www.pili.org/lists/piln/archives/msg00959.html> (last visited Dec. 30, 2002).

85 See *id.*

86 Relevant provisions of the law were abolished by Decree No. 590/1990 of the Coll.L., Decree of the Ministry of Labor and Social Affairs of the Slovak Republic from 20 December 1990, On the Amendment and Modification of the Decree of the Ministry of Health and Social Affairs of Slovak Socialist Republic No. 151/1988 of the Coll.L. as Subsequently Amended (Vyhláska Ministerstva práce a sociálnych vecí Slovenskej republiky z 20. decembra 1990 o zmene a doplnení vyhlásky Ministerstva zdravotníctva a sociálnych vecí Slovenskej socialistickej republiky 151/1988 Zb.), available at

<http://www.mvcr.cz/sbirka/1990/sb099-90.pdf> (last visited Jan. 3, 2003).

87 See Michal Vašečka, *Roma, in SLOVAKIA 2001: A GLOBAL REPORT ON THE STATE OF SOCIETY* 149, 163 (2002); See also *Slovak Roma organization mistrusts media tycoon party's promises*, BRATISLAVA RADIO SLOVENSKO IN SLOVAK, Jul. 21, 2002.

88 See e.g., Časovaná demografická bomba? [Demographic Time Bomb?] 8 TÝŽDENÍK O EKONOMIKE, POLITIKE A SPOLOČNOSTI [On Economics, Politics and Society] 22 (Nov. 25, 2002).

89 See ZOON, ON THE MARGINS: SLOVAKIA, *supra* note 31, at 67, citing to Ministry of Health of the Slovak Republic, *Position Paper on the Working Draft of the Document National Strategy of Sustainable Development in the SR* (Oct. 16, 2000).

90 See OSI, MINORITY PROTECTION IN SLOVAKIA, *supra* note 25, at 437, citing C. Togneri, *Racial Beatings Increase*, 6 SLOVAK SPECTATOR (Dec. 2000 – Jan. 2001).

91 See *id.*

92 *Coalition With HZDS Minus Meciar Possible, Says Fico*, THE GUIDE TO THE SLOVAK REPUBLIC, at <http://www.slovakia.org/news/0105-4.htm> (last visited on Jan. 2, 2003).

93 See Parliamentary Press No. 60/2002, the Law of the SNC that is Amending and Modifying the Law No. 195/1998 of the Coll. – the Law on Social Assistance as Subsequently Amended, and the Law No. 125/1998 of the Coll. – Law on Life Minimum and that is Establishing Amounts for the Purposes of State Social Allowances Pursuant of the Law No. 439/2000 of the Coll, available at http://www.nrsr.sk/zakony/3_3citanie/3_0060z.doc (last visited Dec. 3, 2002).

94 See Steven Erlanger, *The Gypsies of Slovakia: Despised and Despairing*, N.Y. TIMES, Apr. 13, 2000, at A10.

95 Interview with Alexandra, Jasov settlement, Slovakia (Aug. 8, 2002).

96 *Romani women do not Want to Give Birth But Children Make Their Living*, PRAVDA, Feb. 6, 2002.

97 See generally ZOON, ON THE MARGINS: SLOVAKIA, *supra* note 31.

98 See *id.* at 68.

99 See email from Anna-Maija Toukarri, Finish refugee lawyer, to Christina Zampas, Legal Adviser,

- Center for Reproductive Rights (June 20, 2002) (on file with CRR).
- 100 See Press Release, Office of the Deputy Prime Minister for Human Rights, Minorities and Regional Development (Nov. 14, 2001); See also Ed Holt, *Rights-Slovakia: Dispute Over Sterilization of Roma Women*, INTER PRESS SERVICE, Nov. 23, 2001.
- 101 See interview with JUDr. Segeš, Director of department for criminality, and JUDr. Džurná, department of violent criminality, Office of the General Prosecutor, Župné nám, Bratislava, Slovakia (Oct. 8, 2002).
- 102 The terms “cesarean birth,” “cesarean delivery,” “cesarean section,” and “C-section” may be used to describe the delivery of a fetus through a surgical incision of the anterior uterine wall. “Cesarean section” is a tautology; as both words connote incision. Therefore, cesarean birth, cesarean delivery, and C-section are preferable terms and will be used in this report. See OBSTETRICS, NORMAL AND PROBLEM PREGNANCIES 561 (Steven G. Gabbe et al. eds., 3rd ed. 1996) [hereinafter OBSTETRICS, NORMAL AND PROBLEM PREGNANCIES].
- 103 See *id.*
- 104 See WILLIAMS OBSTETRICS 509 (F. Gary Cunningham, et al. eds., 20th ed. 1997) [hereinafter WILLIAMS OBSTETRICS].
- 105 See *id.* at 510-11.
- 106 Interview with Dr. Jacques Milliez, Chief of Gynecology and Obstetrics, St. Antoine Hospital, Paris, France (Oct. 4, 2002).
- 107 See WILLIAMS OBSTETRICS, *supra* note 104, at 515.
- 108 See OBSTETRICS, NORMAL AND PROBLEM PREGNANCIES, *supra* note 102, at 575.
- 109 See WILLIAMS OBSTETRICS, *supra* note 104, 515; See also interview with Dr. Lotti Helstrom, Director, Reproductive Health Unit in the Dept. of Women’s Health, Karolinska Hospital, Stockholm, Sweden, (Aug 21. 2002); Telephone interview with Dr. Chuck DeProse, retired professor of obstetrics and gynecology, University of Iowa (Oct. 9, 2002); Interview with Dr. Jacques Milliez, *supra* note 106.
- 110 See OBSTETRICS, NORMAL AND PROBLEM PREGNANCIES, *supra* note 102, at 575.
- 111 Interview with Dr. Jacques Milliez, *supra* note 106.
- 112 See WILLIAMS OBSTETRICS, *supra* note 104, at 773.
- 113 See *id.*
- 114 See *e.g.*, interview with Prof. MUDr. Miroslav Borovský, DrSc., the chief of 1st Gynecological and Obstetrician clinic of the University Teaching Hospital and Medical School of Comenius University, Bratislava, Slovakia (Oct.8, 2002); interview with MUDr. Barďošová, 1st Gynecological and Obstetrician clinic of the University Teaching Hospital and Medical School of Comenius University, Bratislava, Slovakia (Oct. 8, 2002).
- 115 See WILLIAMS OBSTETRICS, *supra* note 104, at 511.
- 116 See *id.*
- 117 See *id.* at 511-512.
- 118 See *e.g.*, interview with Dr. Lotti Helstrom, *supra* note 109; Telephone interview with Dr. Chuck DeProse, *supra* note 109; Interview with Dr. Jacques Milliez, *supra* note 106.
- 119 See OBSTETRICS, NORMAL AND PROBLEM PREGNANCIES, *supra* note 102, at 606, *citing to* American College of Obstetricians and Gynecologists, *Vaginal Delivery After Previous Cesarean Birth*, PRACTICE PATTERNS, No. 1 (Aug. 1995).
- 120 “The most common cause of uterine rupture is separation of a previous cesarean sect scar.” WILLIAMS OBSTETRICS, *supra* note 104, at 772.
- 121 See Alan Guttmacher Institute (AGI), Facts in Brief: Contraceptive Use (1999), *available at* http://www.guttmacher.org/pubs/fb_contr_use.html (last visited Dec. 6, 2002). Twenty-eight percent of users worldwide choose tubal sterilization as their contraceptive method, as compared to 27% who

- use the birth control pill and 20% who use condoms.
- 122 See OBSTETRICS, NORMAL AND PROBLEM PREGNANCIES, *supra* note 102, at 703.
- 123 See *id.* at 704.
- 124 See *id.*
- 125 See *id.*
- 126 See *id.*; See also WILLIAMS OBSTETRICS, *supra* note 104, at 1378.
- 127 See WILLIAMS OBSTETRICS, *supra* note 104, at 1380; See also OBSTETRICS, NORMAL AND PROBLEM PREGNANCIES, *supra* note 102, at 704.
- 128 See OBSTETRICS, NORMAL AND PROBLEM PREGNANCIES, *supra* note 102, at 704.
- 129 See ENGENDERHEALTH, CONTRACEPTIVE STERILIZATION: GLOBAL ISSUES AND TRENDS 7 (2002).
- 130 See interview with Dr. Lotti Helstrom, *supra* note 109.
- 131 *Id.*
- 132 See U.S. BUREAU OF THE CENSUS, WORLD POPULATION PROFILE: 1998 tbl. A-11 (1999), available at <http://www.census.gov/ipc/prod/wp98/wp98.pdf> (last visited Dec. 3, 2002).
- 133 See Slovak Sterilization law Z-4 582/1972 of 1972, annex XIV.
- 134 See *id.*
- 135 See interview with Agáta, Svinia Settlement, Slovakia (Aug. 10, 2002).
- 136 See HRW, CZECHOSLOVAKIA'S ENDANGERED GYPSIES, *supra* note 37, at 21.
- 137 Interview with Dr. Strýčková, Gynecologist, Prešov, Slovakia (Oct. 14, 2002).
- 138 See interview with Dr. Peter Jankech, Administrator and Director, Spišská Nová Ves hospital, Spišská Nová Ves, Slovakia (Sept. 2, 2002).
- 139 See interview with Dr. Gejza Papp, Director and Chief Gynecologist, Gelnica hospital, Gelnica, Slovakia (Sept. 5, 2002).
- 140 See interview with Dr. Marian Celovský, Gynecologist, Gynecology department of UTH Košice, Slovakia (Aug. 26, 2002).
- 141 See e.g., interview with Dr. Štefan Pitko, Director of Gynecology, Spišská Nová Ves hospital, Spišská Nová Ves, Slovakia (Sept. 2, 2002); interview with Dr. Marián Celovský, *supra* note 140.
- 142 Interview with Stela, Letanovce Settlement, Slovakia (Oct. 13, 2002).
- 143 *Id.*
- 144 Interview with Petra, Zabíjanec- Rudňany settlement, Slovakia (Sept. 2, 2002). Referring to her delivery Spišská Nová Ves Hospital.
- 145 See interview with Valika, Letanovce settlement, Slovakia (Aug. 14, 2002).
- 146 STERILIZATION REGULATION, *supra* note 72.
- 147 See e.g., interview with Dr. Tóth, Chief Gynecologist, Luis Pasteur UTH Košice, Slovakia (Aug. 26, 2002); interview with Dr. Štefan Pitko, *supra* note 141; interview with Dr. Ján Králik, Krompachy hospital, Krompachy, Slovakia (Sept. 3, 2002); interview with MUDr. Gejza Papp, *supra* note 139; interview with MUDr. Martin Kopaničák, Head of Gynecology, Kežmarock Hospital, Slovakia (Sept. 5, 2002); interview with MUDr. Bardošová, *supra* note 114; Prof. MUDr. Miroslav Borovský DrSc., *supra* note 114; MUDr. Kozolková, Ružinov hospital, Bratislava, Slovakia (Oct. 10, 2002).
- 148 See interview with Dr. Martin Kopaničák, *supra* note 147.
- 149 See interviews with Roma women Oct. 13-17, 2002.
- 150 See Law 52/1998 of the Coll. On Protection of Personal Data in Information Systems, art. 8, paras. 1-2. Zákon o ochrane osobných údajov v informacných systémoch.
- 151 Interview with anonymous woman, Švedlár settlement, Slovakia (Oct. 17, 2002).
- 152 Interview with Oľga, Jarovnice settlement, Slovakia (Aug. 11, 2002).
- 153 *Id.*
- 154 See interview with Šarlota, Zborov settlement, Slovakia (Oct. 16, 2002).
- 155 *Id.*

156 *Id.*

157 *See* interview with Katarína, Žehra settlement, Slovakia (Sept. 1, 2002).

158 *See* interview with Edita, Rudňany settlement, Slovakia (Aug. 29, 2002).

159 Interview with Nataša, Bystrany settlement, Slovakia (Aug. 13, 2002).

160 *Id.*

161 *See e.g.*, interview with Klaudia, Žehra settlement, Slovakia, (Aug. 12, 2002); interview with Kamila, Žehra settlement, Slovakia (Aug. 12, 2002); interview with Nataša, *supra* note 159; interview with Gizela, Bystrany settlement, Slovakia (Aug. 13, 2002); interview with Al beta, Bystrany settlement, Slovakia (Aug. 13, 2002); interview with Beáta, Bystrany settlement, Slovakia (Aug. 13, 2002); interview with Lubica, Bystrany settlement, Slovakia (Aug. 13, 2002); interview with Petra, *supra* note 144; interview with Jana, Richnava settlement, Slovakia (Oct. 16, 2002); interview with Sonia, Richnava settlement, Slovakia (Oct. 16, 2002).

162 *See e.g.*, interview with Erika, Bystrany settlement, Slovakia (Aug. 13, 2002); interview with Nataša, *supra* note 159; interview with Beáta, *supra* note 161; interview with Jana, *supra* note 161; interview with Sonia, *supra* note 161.

163 *See* interview with Beáta, *supra* note 161.

164 *See e.g.*, interview with Kamila, *supra* note 161; interview with Petra, *supra* note 144; interview with Sonia, *supra* note 161.

165 *See e.g.*, interview with Kamila, *supra* note 161; interview with Erika, *supra* note 162; interview with Petra, *supra* note 144; interview with Nataša, *supra* note 159.

166 *See e.g.*, interview with Erika, *supra* note 162; interview with Petra, *supra* note 144; interview with Barbora, Letanovce settlement, Slovakia (Aug. 14, 2002).

167 Interview with Petra, *supra* note 144.

168 Interview with Sandra, Richnava settlement, Slovakia (Oct. 16, 2002).

169 Interview with anonymous woman (age 28), Markušovce settlement, Slovakia (Sept. 1, 2002).

170 Interview with Izabela, Drahňov settlement, Slovakia (Oct. 15, 2002).

171 Currency conversions were processed at www.xe.com on Jan 2, 2003.

172 Interview with Izabela, *supra* note 170.

173 Interview with Laura, Letanovce settlement, Slovakia (Aug. 14, 2002).

174 Interview with Sabína, Bystrany settlement, Slovakia (Sept. 3, 2002).

175 *Id.*

176 *Id.*

177 *See e.g.*, STERILIZATION REGULATION, *supra* note 72, art. 7; ZÁKON O OCHRANE ZDRAVIA EUDU [Law on Health], 20/1966 Coll.LL, art. 13 (1966) [hereinafter Law on Health].

178 Interview with Michaela, Romany ghetto in Krompachy city, Slovakia (Oct. 16, 2002).

179 *Id.*

180 Interview with Žofia, Rudňany settlement, Slovakia (Aug. 29, 2002).

181 STERILIZATION REGULATION, *supra* note 72.

182 Law on Health, *supra* note 177, art. 27 (1966).

183 Zákon o zdravotnej starostlivosti [Health Care Act], 277/1994 Coll.LL (1994) [hereinafter Health Care Act].

184 STERILIZATION REGULATION, *supra* note 72, Appendix: The List of Indications that can be reason for performing sterilization, XIV Gynecology and Obstetrics Indications.

185 *Id.* art. 5(1)(b).

186 *Id.* art. 6.

187 *Id.* art. 8.

188 *Id.* art. 9.

189 *Id.* art. 10.

- 190 *Id.* art. 11.
- 191 *Id.* art. 7.
- 192 *Id.* art. 11.
- 193 See interviews with Prof. Dr. Ján Štencl, CSc., President, Slovak Health University, Bratislava, Slovakia (Oct 11, 2002) and Prof. Dr. Štefan Lukačín, UTH Košice (Aug. 26, 2002).
- 194 See e.g., interview with Dr. Martin Kopaničák, *supra* note 147; interview with MUDr. Tóth, *supra* note 147.
- 195 See interview with Prof. Dr. Ján Štencl, *supra* note 193.
- 196 See interview with Prof. Dr. Štefan Lukačín, *supra* note 193.
- 197 STERILIZATION REGULATION, *supra* note 72, appendix XIV, para. 1.
- 198 See Interview with Dr. Ján Králik, *supra* note 147.
- 199 See email from Viera Kusendova, Poradňa, to Christina Zampas, Legal Adviser, Center for Reproductive Rights (Dec. 13, 2001) (on file with CRR).
- 200 See *id.*
- 201 See *id.*
- 202 Interview with Alisa, Romani ghetto in Nálepkovo city, Slovakia, (Oct. 17, 2002)
- 203 See email from Viera Kusendova, *supra* note 199.
- 204 Interview with Klára, Hermanovce settlement, Slovakia (Aug. 10, 2002).
- 205 See email from Viera Kusendova, *supra* note 199.
- 206 Interview with anonymous woman (age 24), Strané pod Tatrami settlement, Slovakia (Sept. 5, 2002).
- 207 See interview with Viera, Bratislava, Slovakia (Oct. 10, 2002).
- 208 Interview with Judita, Jarovnice settlement, Slovakia (Aug. 29, 2002).
- 209 See OBSTETRICS, NORMAL AND PROBLEM PREGNANCIES, *supra* note 102, at 704.
- 210 See e.g., interview with Renata, Lenartov settlement, Slovakia (Oct. 16, 2002); interview with Martina, Jarovnic settlement, Slovakia (Aug. 29, 2002); interview with Zita, Jarovnice settlement, Slovakia (Aug. 29, 2002); interview with Brigita, Svinia settlement, Slovakia (Aug. 31, 2002); interview with Marcela, Zehra settlement, Slovakia (Sept. 1, 2002); interview with Anna, Markušovce settlement, Slovakia (Sept. 1, 2002).
- 211 See *id.*
- 212 See e.g., interview with Dr. Tóth, *supra* note 147; interview with Dr. Ján Králik, *supra* note 147; interview with Dr. Štefan Pitko, *supra* note 141; interview with MUDr. Gejza Papp, *supra* note 139.
- 213 See interview with Dr. Martin Kopaničák, *supra* note 147.
- 214 See interview with MUDr. Gejza Papp, *supra* note 139.
- 215 See *id.*
- 216 See interview with Dr. Marian Celovský, *supra* note 140.
- 217 See *id.*
- 218 See interview with Dr. Miroslav Oleár, Chief of Gynecology, Poprad hospital, Slovakia (Sept. 4, 2002).
- 219 See interview with MUDr. Gejza Papp, *supra* note 139.
- 220 2002 REGULAR REPORT, *supra* note 38, at 31-32.
- 221 Interview with Alexandra, Richnava, Slovakia (Oct. 16, 2002).
- 222 See interview with Izabela, *supra* note 170, speaking of Kralovsky Chlmec hospital.
- 223 See e.g., interviews in Jasov Settlement, Slovakia (Aug. 8, 2002); group interview in Vtáčkovce Settlement, Slovakia (Aug. 9, 2002); group interview with four women, Keccerovce, Slovakia (Aug. 9, 2002); interviews in Svinia Settlement, Slovakia (Aug. 10, 2002); interviews in Hermanovce Settlement, Slovakia (Aug. 10, 2002); interviews in Jarovnice Settlement, Slovakia (Aug. 11, 2002); interviews in Žehra Settlement, Slovakia (Aug. 12, 2002); interviews in Chminianske Jakubovany

- Settlement, Slovakia (Aug. 12, 2002); interviews in Bystrany Settlement, Slovakia (Aug. 13, 2002); group interview in Rudňany Settlement, Slovakia (Aug. 13, 2002); interviews in Letanovce Settlement, Slovakia (Aug. 14, 2002); interviews in Luník IX Settlement, Slovakia (Aug. 26, 2002); interviews in Nad Jazerom – Golianova street Romani ghetto, Slovakia (Aug. 27, 2002); interviews in Jasov Settlement, Slovakia (Aug. 27, 2002); interviews in Stara Teheleňa, Slovakia (Aug. 30, 2002); interviews in Bystrany Settlement, Slovakia (Sept. 3, 2002); Interviews in Medzev Settlement, Slovakia (Sept. 6, 2002); interviews in Kravany Settlement, Slovakia (Oct 15, 2002); interviews in Soľ Settlement (Oct 15, 2002); interview with Izabela, *supra* note 170; interviews in Zborov Settlement (Oct. 16, 2002); interviews in Lenartov Settlement, Slovakia (Oct. 16, 2002); interviews in Richnava Settlement (Oct. 16, 2002); interviews in Švedlár Settlement, Slovakia (Oct. 17, 2002).
- 224 See interview with anonymous woman (27), Medzev, Slovakia (Sept. 6, 2002).
- 225 See visit to Šaca hospital, Košice-Šaca, Slovakia (Aug. 27, 2002) (on file with CRR).
- 226 Interview with Zora, Svinia, Slovakia (Aug. 10, 2002).
- 227 Interview with Mariana at Belgian Red Cross, Stara Teheleňa, Prešov, Slovakia (Aug. 30, 2002).
- 228 See group interview, Bystrany Settlement, Slovakia (Aug. 13, 2002).
- 229 See group interview, Bystrany Settlement, Slovakia (Sept. 3, 2002).
- 230 See interview with Lenka, Prešov, Slovakia (Aug. 30, 2002).
- 231 Interview with Dr. Ján Králik, *supra* note 147.
- 232 Interview with Dr. Štefan Pitko, *supra* note 141.
- 233 See Jožo T. Schön, *Cigánske izby“ v pôrodniciach [Black Rooms in White Maternities]*, NÁRODNÁ OBRODA (Feb. 26, 2002), available at http://www.narodnaobroda.sk/20020226/01_002.html (last visited Dec. 27, 2002).
- 234 “We do not segregate Roma from non-Roma but we have to respect the intimacy of white woman. Roma sometimes want to be only with Roma and we respect this, and we also have to respect the intimacy of white women, not just Roma.” See interview with MUDr. Dušan Frič, Chief Gynecologist, Šaca hospital, Košice-Šaca, Slovakia (Aug. 27, 2002).
- 235 See interview with Dr. Peter Jankech, *supra* note 138.
- 236 See Schön, *supra* note 233.
- 237 *Id.*
- 238 See OSI, MINORITY PROTECTION IN SLOVAKIA, *supra* note 25, at 449.
- 239 See group interview with four women, Kecerovce, Slovakia (Aug. 9, 2002).
- 240 Interview with Judita, *supra* note 208 [New Maternity Ward, Prešov].
- 241 Interview with Alena, Richnava Settlement, Slovakia (Oct. 16, 2002).
- 242 Interview with Lydia, Svinia Settlement, Slovakia (Aug. 10, 2002).
- 243 Interview with Milena, Žehra Settlement, Slovakia (Aug. 12, 2002).
- 244 See interview with MUDr. Dušan Frič, *supra* note 234.
- 245 See e.g., group interview with four women, Kecerovce Settlement, Slovakia (Aug. 9, 2002); group interview, Žehra Settlement, Slovakia (Aug. 12, 2002); interview with Klaudia, *supra* note 161; interview with Ida, Rudňany Settlement, Slovakia (Aug. 13, 2002); Interview with anonymous woman (24), Luník IX, Slovakia (Aug. 26, 2002); interview with anonymous woman (six children), Nad Jazerom – Golianova street Romani ghetto, Slovakia (Aug. 27, 2002); interview with two men, Nad Jazerom – Golianova street Romani ghetto, Slovakia (Aug. 27, 2002); group interview, Jasov Settlement, Slovakia (Aug., 27, 2002); interview with Judita, *supra* note 208; group interview, Markušovce Settlement, Slovakia (Sept. 1, 2002); interview with anonymous woman (24), Strané pod Tatrami Settlement, Slovakia (Sept. 5, 2002); group interview, Medzev Settlement, Slovakia (Sept. 6, 2002); group interview, Bačkov Settlement, Slovakia (Oct. 15, 2002); group interview, Draňov Settlement, Slovakia (Oct. 15, 2002); interview with anonymous woman (28), Soľ Settlement,

- Slovakia (Oct. 15, 2002); group interview, Sačurov Settlement, Slovakia (Oct. 15, 2002).
- 246 Interview with Aranka, Žehra - Drevník Settlement, Slovakia (Aug. 12, 2002).
- 247 See group interview, Drahňov Settlement, Slovakia (Oct. 15, 2002).
- 248 See group interview, Nad jazerom – Golianova street Romani ghetto, Slovakia (Aug. 27, 2002).
- 249 Interview with Ida, *supra* note 245.
- 250 See interview with Dr. Ján Králik, *supra* note 147.
- 251 See group interview with four women, Kecerovce, Slovakia (Aug. 9, 2002).
- 252 See group interview, Jasov Settlement, Slovakia (Aug. 8, 2002).
- 253 See interview with Estera, Luník IX Settlement, Slovakia (Aug. 26, 2002).
- 254 See group interview, Luník IX Settlement, Slovakia (Aug. 26, 2002).
- 255 See group interview, Jasov Settlement, Slovakia (Aug. 8, 2002).
- 256 See group interview with four women, Kecerovce Settlement, Slovakia (Aug. 9, 2002).
- 257 See e.g., group interview, Jasov Settlement, Slovakia (Aug. 8, 2002); interview with Miriama, Jasov Settlement, Slovakia (Aug. 8, 2002); group interview with four women, Kecerovce Settlement, Slovakia (Aug. 9, 2002); interview with Dagmara, Chmiňany Settlement, Slovakia (Aug. 10, 2002); interview with Diana, Svinia Settlement, Slovakia (Aug. 10, 2002); interview with Radka, Jarovnice Settlement, Slovakia (Aug. 11, 2002); group interview, Jarovnice Settlement (Aug. 11, 2002); group interview, Žehra Settlement, Slovakia (Aug. 12, 2002); interview with anonymous woman (22), Chmiňanske Jakubovany Settlement, Slovakia (Aug. 12, 2002); interview with anonymous woman (pregnant), Nad jazerom – Golianova street Romani ghetto, Slovakia (Aug. 27, 2002); interview with anonymous woman (8 children), Nad jazerom – Golianova street Romani ghetto, Slovakia (Aug. 27, 2002); interview with Zita, *supra* note 210; interview with anonymous woman, Soľ Settlement, Slovakia (Oct. 15, 2002); group interview, Drahňov Settlement, Slovakia (Oct. 15, 2002); interview with Izabela, *supra* note 170.
- 258 See interview with Lenka, *supra* note 230.
- 259 See group interview, Ostrovany Settlement, Slovakia (Aug. 30, 2002).
- 260 Interview with Lujza, Rákoš Settlement, Slovakia (Aug. 9, 2002).
- 261 See group interview, Sačurov Settlement, Slovakia (Oct. 15, 2002).
- 262 Interview with Linda, Letanovce Settlement, Slovakia (Aug. 14, 2002).
- 263 See interview with anonymous woman (discussing her daughter's experience), Nad jazerom – Golianova street Romani ghetto, Slovakia (Aug. 27, 2002).
- 264 Interview with Dagmara, *supra* note 257.
- 265 See interview with Laco Ľurkovič, Director, People against Racism, Bratislava, Slovakia (Oct. 10, 2002).
- 266 See group interview, Rudňany Settlement, Slovakia (Aug. 13, 2002).
- 267 See interview with anonymous woman (six children), Nad jazerom – Golianova street Romani ghetto, Slovakia (Aug. 27, 2002).
- 268 See interview with anonymous woman (31), Chmiňanske Jakubovany Settlement, Slovakia (Aug. 12, 2002).
- 269 See group interview, Ostravany Settlement, Slovakia (Aug. 30, 2002).
- 270 See group interview, Žehra - Drevník Settlement, Slovakia (Aug. 12, 2002).
- 271 See interview with young woman, Bystrany Settlement, Slovakia (Sept. 3, 2002).
- 272 See testimony of anonymous women from Jasov during training session in Košice, Slovakia (Oct. 19, 2002).
- 273 See interview with Lenka, *supra* note 230.
- 274 See interview with an activist from the non-governmental organization FENESTRA, Košice, Slovakia (Sept. 6, 2002).
- 275 See interview with Zuzana Kandrková, Nurse, Gynecology and Obstetrics Department, Spišská

- Nová Ves hospital, Spišská Nová Ves, Slovakia (Sept 2, 2002).
- 276 See discussion with Adela Olšovská, Chief Nurse, Gynecology Department, Šaca hospital, Košice - Šaca, Slovakia (Aug. 27, 2002).
- 277 Interview with Dr. Ján Králik, *supra* note 147.
- 278 *Id.*
- 279 Interview with MUDr. Gejza Papp, *supra* note 139.
- 280 Interview with Dr. Peter Jankech, *supra* note 138.
- 281 Interview with MUDr. Štefan Pitko, *supra* note 141.
- 282 See Štefan Frimer, *Emília Ondičová, matka deviatich detí, si sem-tam aj pomýli ich mená (Emília Ondičová, Mother of 9 Children Sometimes Confuses Their Names)* KORZÁR (June 3, 2002), available at <http://www.cassovia.sk/korzar/archiv/clanok.php?sub=3.6.2002/711Z&title=Em%EDlia%20Ondicov%E1%2C%20matka%20deviatich%20det%ED%2C%20si%20semtam%20aj%20pom%FDli%20ich%20men%E1%0D%0A> (last visited Dec. 28, 2002).
- 283 See interview with anonymous woman (pregnant), Nad jazerom – Golianova street Romani ghetto, Slovakia (Aug. 27, 2002).
- 284 See interview with anonymous woman (six children), Nad jazerom – Golianova street Romani ghetto, Slovakia (Aug. 27, 2002); See also interview with Lujza, Rákoš Settlement, Slovakia (Aug. 9 2002).
- 285 See group interview, Jasov Settlement, Slovakia (Aug. 27, 2002); See also interview with anonymous woman (28), Markušovce Settlement, Slovakia (Sept. 1, 2002).
- 286 See interview with Dr. Dušan Frič, *supra* note 234.
- 287 See interview with Dr. Štefan Pitko, *supra* note 141.
- 288 Interview with Dr. Eva Sopková, ProFamilia, Humenné, Slovakia (Oct. 15, 2002).
- 289 See interview with non-Romani woman (35), Bratislava, Slovakia (Oct. 10, 2002).
- 290 Discussion with Dr. Miroslav Kraus, Director, Krompachy hospital, Slovakia (Sept. 3, 2002).
- 291 Incident in Spišská Nová Ves hospital, 3 September 2002. In the presence of several witnesses MUDr. Pitko, chief gynecologist, said that he would show the file only to another doctor and would prevent anyone else, even the patient, from taking notes from it aside from another doctor.
- 292 See Health Care Act, *supra* note 183, § 16 (1994); Charta práv pacienta v Slovenskej republike [Charter on Patients Rights], Governmental Decree No. 326, arts. 3.4–3.6 (2001).
- 293 Interview with MUDr. Gejza Papp, *supra* note 139.
- 294 Discussion with Dr. Kyselý, Chief, New Maternity Prešov, Prešov (Aug. 28, 2002).
- 295 See interview with MUDr. Kozolková, *supra* note 147.
- 296 Discussion with Dr. Kraus, *supra* note 290.
- 297 OBČIANSKY ZÁKONÍK [CIV. CODE], art. 31.
- 298 Discussion with Adela Olšovská, *supra* note 276.
- 299 Discussion with Dr. Dušan Frič, *supra* note 234.
- 300 Visit to Old Maternity Prešov, Prešov (Aug. 30, 2002).
- 301 Discussion with JUDr. Podolský, Šaca hospital, Košice -Šaca (Aug. 27, 2002).
- 302 Discussion with JUDr. Anna Krajňáková, lawyer of Spišská Nová Ves hospital (Sept. 3, 2002).
- 303 Discussion with nurse, New Maternity Prešov I, Prešov (Aug. 28, 2002).
- 304 Telephone interview with Mr. Citány, Lawyer, Legal Department, Ministry of Health (Aug. 28, 2002); Ministry of Health, *Na čo sa pýtate? [Frequently Asked Questions]*, at <http://www.health.gov.sk/tlac/faq01.html> (last visited Dec. 28, 2002).
- 305 Telephone interview with Marcela Bôžiková, Director, Legislation Department, Ministry of Health (Sept. 3, 2002).
- 306 Complaints were filed with New Maternity Prešov; Old Maternity Prešov; Krompachy hospital;

- Šaca hospital; and UTH Košice (on file with CRR and Poradňa).
- 307 Letter from JUDr. Marecela Bôžiková, Director, Legislation Department, Ministry of Health, File No. SSSZ/4196/2002/L/Mo. (Oct. 11, 2002).
- 308 Letter from Dr. Miroslav Kraus, Director, Krompachy hospital, File No. sekr./234, 101/2002 (Oct. 25, 2002) (on file with CRR and Poradňa); Letter from Dr. Peter Biroš, Director, UTH Prešov, File No. St. 8/2002, (Oct. 11 2002) (on file with CRR and Poradňa).
- 309 An appeal was filed with the Ministry of Health on Nov. 1, 2002 (on file with CRR and Poradňa).
- 310 International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (*entered into force* Mar. 23, 1976) [hereinafter Civil and Political Rights Covenant].
- 311 International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200A (XXI), U.N. GAOR, Supp. No. 16, at 49, U.N. Doc A/6316 (1966), 999 U.N.T.S. 3 (*entered into force* Jan. 3, 1976, *ratified by Slovakia* May 28, 1993) [hereinafter Economic, Social and Cultural Rights Covenant].
- 312 Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, G.A. Res. 260A (III), U.N. Doc. A/810 (1948), 78 U.N.T.S. 277 (*entered into force* Jan 12, 1951) [Convention on Genocide].
- 313 Convention on the Elimination of All Forms of Discrimination against Women, *adopted* Dec. 18, 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46 (1979) (*entered into force* Sept. 3, 1981, *ratified by Slovakia* May 28, 1993) [hereinafter CEDAW].
- 314 International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195, (*entered into force* Jan. 4, 1969, *ratified by Slovakia* May 28, 1993) [hereinafter Convention against Racial Discrimination].
- 315 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* Dec. 10, 1984, G.A. Res. 39/46, U.N. GAOR, 39th Sess., Supp. No. 51, at 197, U.N. Doc. A/39/51 (1984), 1465 U.N.T.S. 85 (*entered into force* June 26, 1987) [hereinafter Convention against Torture].
- 316 Slovakia ratified the Civil and Political Rights Covenant, the Economic, Social and Cultural Rights Covenant, CEDAW, the Convention against Racial Discrimination and the Convention against Torture, and Convention on Genocide on May 28, 1993. See OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, STATUS OF THE RATIFICATION OF INTERNATIONAL HUMAN RIGHTS TREATIES 7 (2002), available at <http://www.unhchr.ch/pdf/report.pdf> (last visited Dec. 27, 2002); See also *Status of the Convention on the Prevention and Punishment of the Crime of Genocide: Report of the Secretary-General*, U.N. GAOR, 56th Sess., Agenda Item 132(a), U.N. Doc A/546/177 (Aug. 15, 2001).
- 317 Rome Statute of the International Criminal Court, *adopted* July 17, 1998, United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, Italy, June 15–July 17, 1998, U.N. Doc. A/CONF.183/9 (1998) *reprinted in* 37 I.L.M. 1002 (*entered into force* July 1, 2002) [hereinafter Rome Statute of the International Criminal Court]. Slovakia ratified the Rome Statute on Apr. 11, 2002. See United Nations Treaty Collection, 10. *Rome Statute of the International Criminal Court*, at <http://untreaty.un.org/ENGLISH/bible/english-internetbible/partI/chapterXVIII/treaty10.asp> (last visited Dec. 27, 2002).
- 318 Universal Declaration of Human Rights, *adopted* Dec. 10, 1948, G.A. Res. 217A (III), at 71, art. 25, U.N. Doc. A/810 (1948) [hereinafter Universal Declaration].
- 319 *Programme of Action of the International Conference on Population and Development*, Cairo, Egypt, Sept. 5-13, 1994, Principle 8, U.N. Doc. A/CONF.171/13/Rev.1 (1995) [hereinafter ICPD *Programme of Action*].
- 320 *Beijing Declaration and the Platform for Action, Fourth World Conference on Women*, Beijing, China, Sept. 4-15, 1995, ¶ 91, U.N. Doc. A/CONF.177/20 (1995) [hereinafter *Beijing Declaration*].

- and Platform for Action].
- 321 *Programme of Action, Final Report of the World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance*, Durban, Aug. 31–Sept. 8, 2001, ¶ 69, U.N. Doc. A/CONF.189/12 (2001) [hereinafter WCAR *Programme of Action*].
- 322 Declaration on the Elimination of Violence against Women, G.A. Res. 48/104, U.N. GAOR, 48th Sess., Supp. No. 49, at 217, U.N. Doc. A/48/49 (1993) [hereinafter Declaration on Violence against Women].
- 323 See e.g., *Report of the Special Rapporteur on Violence against Women, its Causes and Consequences*, Commission on Human Rights, 55th Sess., Provisional Agenda Item 12 (a), U.N. Doc. E/CN.4/1999/68/Add.4 (1999).
- 324 See Council of Europe, *The Council of Europe in Brief*, at http://www.coe.int/T/E/Communication_and_Research/Contacts_with_the_public/About_Council_of_Europe/An_overview/ (last visited Jan. 4, 2003) [hereinafter Council of Europe, *in Brief*].
- 325 See Council of Europe, *Overview*, at http://www.coe.int/T/E/Communication_and_Research/Contacts_with_the_public/About_Council_of_Europe/An_overview/ (last visited Dec. 27, 2002) [hereinafter Council of Europe, *Overview*].
- 326 See *id.*
- The overview states that the Council’s aims are:
- “- to protect human rights, pluralist democracy and the rule of law;
 - to promote awareness and encourage the development of Europe's cultural identity and diversity;
 - to seek solutions to problems facing European society (discrimination against minorities, xenophobia, intolerance, environmental protection, human cloning, Aids, drugs, organised crime, etc.);
 - to help consolidate democratic stability in Europe by backing political, legislative and constitutional reform.”
- 327 Convention for the Protection of Human Rights and Fundamental Freedoms, ETS No. 5, 213 U.N.T.S. 222 (*entered into force* Sept. 3, 1953, *as amended by* Protocols Nos. 3, 5, 8, 11, *which entered into force* Sept. 21 1970, Dec. 20, 1971, Jan. 1, 1990, and Nov. 1, 1998) [hereinafter European Convention on Human Rights]. Slovakia ratified the European Convention on Human Rights on Mar. 18, 1992, and it entered into force for Slovakia on Jan. 1, 1993. See Treaty Office, Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedoms: Chart of Signatures and Ratifications*, at <http://conventions.coe.int/Treaty/EN/searchsig.asp?NT=005&CM=8&DF=27/12/02> (last visited Dec. 27, 2002).
- 328 Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine, April 4, 1997, E.T.S. 164, (*entered into force* Dec. 1, 1999) [hereinafter European Convention on Human Rights and Biomedicine]. Slovakia ratified the European Convention on Human Rights and Biomedicine on Jan. 15, 1998 and it entered into force for Slovakia on Dec. 15, 1999. See Treaty Office, Council of Europe, *Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine: Chart of Signatures and Ratifications*, at <http://conventions.coe.int/Treaty/EN/searchsig.asp?NT=164&CM=8&DF=27/12/02> (last visited Dec. 27, 2002).
- 329 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Nov. 26, 1987, E.T.S. 126 (*entered into force* February 1, 1989) [hereinafter the European Convention against Torture]. Slovakia ratified the European Convention against Torture on May 11, 1994 and it entered into force for Slovakia on Sept. 1, 1994. See Treaty Office, Council of Europe, *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment: Chart of Signatures and Ratifications*, at <http://conventions.coe.int/Treaty/EN/search->

- sig.asp?NT=126&CM=8&DF=27/12/02 (last visited Dec. 27, 2002).
- 330 European Social Charter, E.T.S. 35, 529 U.N.T.S. 89 (*entered into force* Feb. 26, 1965). Slovakia ratified the European Social Charter on June 22, 1998, and it entered into force for Slovakia on July 21, 1998. See Treaty Office, Council of Europe, *European Social Charter: Chart of Signatures and Ratifications*, at <http://conventions.coe.int/Treaty/EN/searchsig.asp?NT=035&CM=8&DF=27/12/02> (last visited Dec. 27, 2002).
- 331 Protocol Amending the European Social Charter, Oct. 21, 1991, E.T.S. 142 (*not yet in force*) [hereinafter Revised European Social Charter]. Slovakia ratified the Revised Social Charter on June 22, 1998, but it has not yet entered into force. See Treaty Office, Council of Europe, *Protocol Amending the European Social Charter: Chart of Signatures and Ratifications*, at <http://conventions.coe.int/Treaty/EN/searchsig.asp?NT=142&CM=8&DF=27/12/02> (last visited Dec. 27, 2002).
- 332 Framework Convention for the Protection of National Minorities, Feb. 1, 1995, E.T.S. 157 (*entered into force* Feb. 1, 1998). Slovakia ratified the Convention on Sept. 14, 1995 and it entered into force for Slovakia on February 1, 1998. See Treaty Office, Council of Europe, *Framework Convention for the Protection of National Minorities: Chart of Signatures and Ratifications*, at <http://conventions.coe.int/Treaty/EN/searchsig.asp?NT=157&CM=8&DF=27/12/02> (last visited Dec. 27, 2002).
- 333 European Convention on Human Rights, *supra* note 327, § 2.
- 334 See Council of Europe, *Committee of Ministers*, at http://www.coe.int/t/E/Committee_of_Ministers/Home/General_Information/About_the_C.M/aboutcm.asp (last visited Dec. 27, 2002).
- 335 See *id.*
- 336 See European Union, *The European Union at a Glance*, at <http://europa.eu.int/abc-en.htm> (last visited Dec. 27, 2002).
- 337 See EUROPEAN UNION, AGENDA 2000—COMMISSION OPINION ON SLOVAKIA'S APPLICATION FOR MEMBERSHIP OF THE EUROPEAN UNION, § B.3, E.U. Doc. DOC/97/20 (1997), available at <http://europa.eu.int/comm/enlargement/dwn/opinions/slovakia/sk-op-en.pdf> (last visited Dec. 27, 2002).
- 338 TREATY OF THE EUROPEAN UNION, Feb. 7, 1992, 1992 O.J. (C 191) 1.
- 339 TREATY OF AMSTERDAM AMENDING THE TREATY ON EUROPEAN UNION, THE TREATIES ESTABLISHING THE EUROPEAN COMMUNITIES AND CERTAIN RELATED ACTS, Oct. 2, 1997, 1997 O.J. (C 340) 1 [hereinafter TREATY OF AMSTERDAM].
- 340 Charter of Fundamental Rights of the European Union, *proclaimed by the Commission* Dec. 7, 2000, 2000 O.J. (C 364) 1 [hereinafter Charter of Fundamental Rights].
- 341 See European Union, *About the Charter: Weighing up the Charter's Impact*, at http://europa.eu.int/comm/justice_home/unit/charte/en/about-status.html (last visited Dec. 27, 2002); See also European Union, *About the Charter: Legal Status: Giving the Charter Teeth*, at http://europa.eu.int/comm/justice_home/unit/charte/en/about-impact.html (last visited Dec. 27, 2002).
- 342 Regional Office for Europe, World Health Organization (WHO), *A Declaration on the Promotion of Patients' Rights in Europe*, European Consultation on the Rights of Patients, Mar. 28-30, 1994, arts. 3.1-3.2, WHO Doc. EUR/ICP/HLE 121 (1994) [hereinafter WHO, *Declaration on Patients' Rights*].
- 343 Slovakia is a member of the World Health Organization. See Regional Office for Europe, World Health Organization, *Member States*, at <http://www.who.dk/AboutWHO/About/MH> (last visited Dec. 27, 2002).
- 344 See *e.g.*, Universal Declaration, *supra* note 318, art. 25; CEDAW, *supra* note 313, arts. 10(h), 12,

- 14.2(b); Convention against Racial Discrimination, *supra* note 314, art. 5(e)(iv); Economic, Social and Cultural Rights Covenant, *supra* note 311, art. 1; ICPD *Programme of Action*, *supra* note 319, Principle 8; *Beijing Declaration and Platform for Action*, *supra* note 320, ¶ 91.
- 345 See Revised European Social Charter, *supra* note 331, arts. 11, 13; European Convention on Human Rights and Biomedicine, *supra* note 328, art. 3; TREATY OF AMSTERDAM, *supra* note 339, art. 2.26; Charter of Fundamental Rights *supra* note 340, art. 35; Report on Sexual and Reproductive Health and Rights, EUR. PARL. DOC. A5-0023/2002 (June 6, 2002).
- 346 Committee on Economic, Social and Cultural Rights, *General Comment 14: The Right to the Highest Attainable Standard of Health (Art. 12)* (22nd Sess., 2000), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 90, ¶ 8, U.N. Doc. HRI/GEN/1/Rev.5 (2001) [hereinafter CESCR, *General Comment 14*].
- 347 Committee on the Elimination of Discrimination against Women, *General Recommendation 24: Women and Health* (20th Sess., 1999), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 244, ¶ 22, U.N. Doc. HRI/GEN/1/Rev.5 (2001).
- 348 *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Slovakia*, 57th Sess., ¶ 14, U.N. Doc. CERD/C/304/Add.110 (2001).
- 349 ICPD *Programme of Action*, *supra* note 319, principle 8.
- 350 Universal Declaration, *supra* note 318, arts. 3, 5; Civil and Political Rights Covenant, *supra* note 310, arts. 6–7, 9; European Convention on Human Rights, *supra* note 327, arts. 2–3, 5; Convention against Torture, *supra* note 315, preamble.
- 351 See e.g., Universal Declaration, *supra* note 318, arts. 12, 16.1; Civil and Political Rights Covenant, *supra* note 310, art. 17; European Convention on Human Rights, *supra* note 327, arts. 8, 12; European Convention on Human Rights and Biomedicine, *supra* note 328, art. 10.1.
- 352 Human Rights Committee, *General Comment 28: Equality of Rights Between Men and Women (Art. 3)* (68th Sess., 2000), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 168, ¶ 11, U.N. Doc. HRI/GEN/1/Rev.5 (2001).
- 353 Declaration on Violence against Women, *supra* note 322.
- 354 *Report of the Special Rapporteur on Violence against Women, its Causes and Consequences*, Commission on Human Rights, 55th Sess., Provisional Agenda Item 12 (a), ¶ 51, U.N. Doc. E/CN.4/1999/68/Add.4 (1999).
- 355 See e.g., CEDAW, *supra* note 313, art 16.1(e); *Beijing Platform for Action*, *supra* note 320, para 96; ICPD *Programme of Action*, *supra* note 319, para 7.3.
- 356 Committee on the Elimination of Discrimination against Women, *General Recommendation 19: Violence against Women* (11th Sess., 1992), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 216, ¶ 22, U.N. Doc. HRI/GEN/1/Rev.5 (2001) [hereinafter CEDAW Committee, *General Recommendation 19*].
- 357 *Id.* ¶ 24(m).
- 358 European Convention on Human Rights and Biomedicine, *supra* note 328, art. 5.
- 359 Charter of Fundamental Rights, *supra* note 340, art. 3.2.
- 360 Report on Sexual and Reproductive Health and Rights, *supra* note 345, ¶ T(3).
- 361 WHO, *Declaration on Patients' Rights*, *supra* note 342, arts. 3.1–3.2; see generally *id.*, arts. 2–3.
- 362 Convention on Genocide, *supra* note 312.
- 363 *Id.* 2(d).
- 364 *Id.* art. 1.
- 365 *Id.* arts. 1,4.
- 366 Rome Statute of the ICC, *supra* note 317, art. 6; Statute of the International Criminal Tribunal for the Former Yugoslavia, established by S.C. Res. 827, U.N. SCOR, 48th Sess., art. 4.2, U.N. Doc.

- S/RES/827 (1992), *as amended* by Res. 1411 (2002); International Criminal Tribunal for Rwanda, *established* by S.C. Res. 955, U.N. SCOR, 49th Sess., art. 2, U.N. Doc. S/RES/955 (1994).
- 367 Rome Statute of the ICC, *supra* note 317, art. 7(1)(g).
- 368 ÚSTAVA SLOVENSKEJ REPUBLIKY [SLOVK. CONST.], art. 40 [hereinafter SLOVK. CONST.].
- 369 *Id.* arts. 41(1)–41(2).
- 370 *Id.* art. 19(2).
- 371 *Id.* art. 16(2).
- 372 *Id.* art. 17.
- 373 Charter on Patients' Rights, *supra* note 292, Preamble.
- 374 Health Care Act, *supra* note 188, § 20a.
- 375 POLICY STATEMENT OF THE GOVERNMENT OF THE SLOVAK REPUBLIC, Chapter on Social Affairs: Healthcare.
- 376 *See* Ministry of Health, Preparing Roma citizens for marriage and family planning 1999-2000, *available at* http://www.government.gov.sk/INFOSERVIS/DOKUMENTY/ROMSTRAT/en_rs_subor_ob7.shtml (last visited Jan. 7, 2003); *See also* interview with Jana Kviečinská and Kinga Novotná, Slovak Office of Deputy Prime Minister for Human rights, Minorities and Regional Development (Oct.11, 2002), Bratislava referring to program in Lunik IX.
- 377 *See* interview with Jana Kviečinská and Kinga Novotná, Slovak Office of Deputy Prime Minister for Human rights, Minorities and Regional Development (Oct.11, 2002).
- 378 TRESTNÝ ZÁKON [CRIM. CODE] arts. 221–222.
- 379 *Id.* art. 222, ¶ 1.
- 380 *Id.* art. 222.
- 381 Up to three years for intentional injury to health that is racially or ethnically motivated. *Id.* art. 221, ¶ 2(b). Up to 10 years if causes serious bodily harm that is racially or ethnically motivated. *Id.* art. 222, ¶ 2(b).
- 382 *Id.* art. 221, ¶ 3.
- 383 *Id.*
- 384 *Id.* arts. 223–224.
- 385 *Id.* art. 259.
- 386 *Id.* art. 259, ¶ 1(b).
- 387 *Id.* art. 259, ¶ 1(d).
- 388 Health Care Act, *supra* note 183, § 6(2)(a).
- 389 *Id.* § 77(1).
- 390 *Id.* § 77(2).
- 391 Charter on Patients' Rights, *supra* note 292, arts. 9.2.
- 392 *See* Law 219/2002 of the Coll. On the Profession of the Medical Doctor, on Slovak Medical Chamber, art. 13 (Mar. 2002). Zákon 219/2002 Z.z., o povolání lekára, o Slovenskej lekárskej komore, o povolání zubného lekára, o Slovenskej komore zubných lekárov a o zmene a doplnení niektorých zákonov.
- 393 *See* interview with Dr. Mario Moro, Board of Directors, Slovak Medical Chamber and President of Trvava Regional Chamber, Bratislava, Slovakia (Oct. 10, 2002).
- 394 Charter on Patients' Rights, *supra* note 292, Preamble.
- 395 Health Care Act, *supra* note 183, § 13.
- 396 Charter on Patients' Rights, *supra* note 292.
- 397 Health Care Act, *supra* note 183, § 13(2).
- 398 *Id.*
- 399 *Id.* § 13(5).

- 400 *Id.* § 13(6).
- 401 OBČIANSKY ZÁKONÍK [CIV. CODE], art. 49a.
- 402 CEDAW, *supra* note 313, arts. 10(h), 14(2)(b), 16(1)(e); *See also* ICPD Programme of Action, *supra* note 319, ¶ 7.2–7.3; *Beijing Platform for Action*, *supra* note 320, ¶ 94–96.
- 403 Committee on the Elimination of Discrimination against Women, *General Recommendation 21: Equality in Marriage and Family Relations* (13th Sess., 1994), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 222, ¶ 22, U.N. Doc. HRI/GEN/1/Rev.5 (2001).
- 404 *See e.g.*, European Social Charter, *supra* note 330, art. 11.2; Revised European Social Charter, *supra* note 331, art. 11; European Convention on Human Rights and Biomedicine, *supra* note 328, arts. 10.2–10.3.
- 405 Council of Europe, Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine: Explanatory Report ¶ 36 (1996) [hereinafter Explanatory Report on the Convention on Human Rights and Biomedicine], *available at* <http://conventions.coe.int/Treaty/en/Reports/Html/164.htm> (last visited Dec. 24, 2002).
- 406 *Id.* ¶ 36.
- 407 Committee of Ministers, Council of Europe, *Resolution on Family Planning Programs*, 284th mtg. of the Ministers' Deputies, §§ III(B)(v), III(C)(i), Res. (78)10 (1978), *available at* [http://www.social.coe.int/en/cohesion/fampol/resol/family/res\(78\)10.htm](http://www.social.coe.int/en/cohesion/fampol/resol/family/res(78)10.htm) (last visited Dec. 24, 2002).
- 408 OSCE, REPORT ON THE SITUATION OF ROMA, *supra* note 23, at 129.
- 409 International Federation of Gynecology and Obstetrics, *Ethical Considerations in Sterilization*, at Specific Ethical Considerations, ¶ 6, at <http://www.figo.org/default.asp?id=6097> (last visited Dec. 23, 2002).
- 410 WHO, *Declaration on Patients' Rights*, *supra* note 342, art. 2.2.
- 411 Health Care Act, *supra* note 183, § 6(2)(b).
- 412 *Id.* § 15(1).
- 413 *Id.* § 15(3).
- 414 Charter on Patients' Rights, *supra* note 292, arts. 3.1, 3.5.
- 415 *See* Law 98/1995 of the Coll. On Medical Order as Subsequently Amended and the Regulation of the Ministry of Health of the Slovak Republic. Opatrenie Ministerstva zdravotníctva Slovenskej republiky z 30. júla 2002, ktorým sa vydáva zoznam liečiv a liekov uhrádzaných alebo čiastočne uhrádzaných na základe zdravotného poistenia, *available at* http://www.health.gov.sk/farmacia/kategorizacia_text.html (last visited Jan. 2, 2003). In contrast, sterilizations for medical reasons are covered by insurance. *See* Law 98/1995 of the Coll. On Medical Order as Subsequently Amended, art. 34, para. 2(a). Zákon o Liečebnom poriadku, *available at* www.health.gov.sk/download/slp_zak_liecebny_poriadok.pdf (last visited Jan. 2, 2003).
- 416 Charter of the United Nations (as amended), June 26, 1945, 59 Stat. 1031, T.S. No. 993, 3 Bevans 1153, art. 1.3.
- 417 Universal Declaration, *supra* note 318, art. 2; Civil and Political Rights Covenant, *supra* note 310, art. 2; Economic, Social, and Cultural Rights Covenant, *supra* note 311, art. 2.2.
- 418 Convention against Racial Discrimination, *supra* note 314, art. 1.1.
- 419 Committee on the Elimination of Racial Discrimination, *General Recommendation XXVII: Discrimination against Roma* (57th Sess., 2000), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 196, ¶ 33, U.N. Doc. HRI/GEN/1/Rev.5 (2001).
- 420 Committee on the Elimination of Racial Discrimination, *General Recommendation XXV: Gender Related Dimensions of Racial Discrimination* (56th Sess., 2000), in *Compilation of General*

- Comments and General Recommendations by Human Rights Treaty Bodies, at 194, ¶¶ 1–2, U.N. Doc. HRI/GEN/1/Rev.5 (2001).
- 421 WCAR *Programme of Action*, *supra* note 321, ¶ 69.
- 422 Framework Convention for the Protection of National Minorities, *supra* note 332, arts. 4, 6; European Convention on Human Rights and Biomedicine, *supra* note 328, art. 11; European Convention on Human Rights, *supra* note 327, art. 14; Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 2000, art. 1, E.T.S. 177 (*not yet in force*) [hereinafter Protocol No. 12 to the European Convention on Human Rights]; Steering Committee for Human Rights, Council of Europe, Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms: Explanatory Report, ¶¶ 22, 28 (2000) [hereinafter Explanatory Report on Protocol No. 12], *available at* <http://conventions.coe.int/treaty/en/Reports/Html/177.htm> (last visited Dec. 24, 2002); Revised European Social Charter, *supra* note 331, part V, art. E; TREATY OF AMSTERDAM, *supra* note 339, art. 2.7.
- 423 Advisory Committee on the Framework Convention for the Protection of National Minorities, Council of Europe, *Opinion on Slovakia*, ¶ 18, ACFC/INF/OP/I(2001)1 (Sept. 22, 2000).
- 424 Committee of Ministers, Council of Europe, *Resolution on the Implementation of the Framework Convention for the Protection of National Minorities by Slovakia*, 773rd mtg of the Ministers' Deputies, ¶ 1–2, ResCMN(2001) 5 (Nov. 21, 2001).
- 425 Protocol No. 12 to the European Convention on Human Rights, *supra* note 422, art. 1.
- 426 See European Union, *Glossary: Accession Criteria (Copenhagen Criteria)*, at <http://europa.eu.int/scadplus/leg/en/cjg/g4000a.htm> (last visited Dec. 29, 2002). The other three Copenhagen Criteria are: are stability of institutions guaranteeing democracy, the rule of law, and human rights.
- 427 Council Directive 2000/43/EC, arts. 1–2, 2000 O.J. (L 180) 22.
- 428 *Id.* art. 3.1(e).
- 429 2002 REGULAR REPORT, *supra* note 38, at 31, § B.1.2.
- 430 *Id.*
- 431 Organization for Security and Co-operation in Europe (OSCE), *Istanbul Summit Declaration*, ¶ 31 OSCE Doc. SUM.DOC/2/99 (Nov. 19, 1999); OSCE, REPORT ON THE SITUATION OF ROMA, *supra* note 23.
- 432 OSCE, REPORT ON THE SITUATION OF ROMA, *supra* note 23, at 7.
- 433 *Id.* at 129.
- 434 SLOV. CONST., *supra* note 368, arts. 12(1)–12(2).
- 435 Charter on Patients' Rights, *supra* note 292, arts. 1.2, 2.
- 436 2002 REGULAR REPORT, *supra* note 38, at 31, § B.1.2.
- 437 See OSI, MINORITY PROTECTION IN SLOVAKIA, *supra* note 25, at 476.
- 438 See Slovak Republic Government Office, at <http://www.government.gov.sk/english/> (last visited Jan. 3, 2002).
- 439 See 2002 REGULAR REPORT, *supra* note 38, at 31.
- 440 See Strategy of the Government of the Slovak Republic for the Solution of the Problems of the Roma National Minority, *available at* http://www.government.gov.sk/INFOSERVIS/DOKUMENTY/ROMSTRAT/en_romstrategia.shtml (last visited Jan. 6, 2002).
- 441 See generally, *Verejný ochranca práv*, at <http://www.verejnyochrancprav.gov.sk> (last visited Jan. 3, 2003).
- 442 Law 207/2002, Resolution of the Government of Slovakia, Concerning the draft Action Plan for the Prevention of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Forms of Expressions of Intolerance for the Period 2002–2003, para 2.6 (Mar. 2002).

- 443 See WOMEN 2000, *supra* note 35, at 394.
- 444 See e.g., Universal Declaration, *supra* note 318, arts. 3, 5, 25; CEDAW, *supra* note 313, arts. 10(h), 12, 14.2(b); Convention against Racial Discrimination, *supra* note 314, art. 5(e)(iv); Economic, Social and Cultural Rights Covenant, *supra* note 311, art. 12; Civil and Political Rights Covenant, *supra* note 310, arts. 6–7, 9; ICPD *Programme of Action*, *supra* note 319, Principle 8; *Beijing Platform for Action*, *supra* note 320, ¶ 91; European Convention on Human Rights, *supra* note 327, arts. 2–3, 5; European Social Charter, *supra* note 330, arts. 11, 13; Revised European Social Charter, *supra* note 331, arts. 11, 13; European Convention on Human Rights and Biomedicine, *supra* note 328, art. 3; TREATY OF AMSTERDAM, *supra* note 339, art. 2.26; Charter of Fundamental Rights, *supra* note 340, art. 35; Report on Sexual and Reproductive Health and Rights, *supra* note 345.
- 445 See e.g., Universal Declaration, *supra* note 318, art. 2; Civil and Political Rights Covenant, *supra* note 310, art. 2; Economic, Social, and Cultural Rights Covenant, *supra* note 311, art. 2.2; Convention against Racial Discrimination, *supra* note 314, art. 1.1; WCAR *Programme of Action*, *supra* note 321, ¶ 69; Framework Convention for the Protection of National Minorities, *supra* note 332, arts. 4, 6; European Convention on Human Rights and Biomedicine, *supra* note 328, art. 11; European Convention on Human Rights, *supra* note 327, art. 14; Protocol No. 12 to the European Convention on Human Rights, *supra* note 422, art. 1; Revised European Social Charter, *supra* note 331, part V, art. E; TREATY OF AMSTERDAM, *supra* note 339, art. 2.7; Council Directive 2000/43/EC, arts. 1–3, 2000 O.J. (L 180) 22.
- 446 Economic, Social and Cultural Rights Covenant, *supra* note 311, art. 12.1
- 447 Declaration on Violence against Women, *supra* note 322, art. 2(c).
- 448 Committee on the Elimination of Racial Discrimination, *General Recommendation XV: Article 4 of the Convention* (42nd Sess., 1993) in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 184, ¶¶ 2–4, U.N. Doc. HRI/GEN/1/Rev.5 (2001).
- 449 *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, Commission on Human Rights, 58th. Sess., Provisional Agenda Item 11(c), ¶¶ 63–64, U.N. Doc. E/CN.4/2002/75 (2002).
- 450 SLOVK. CONST., *supra* note 368, art. 16(2).
- 451 Health Care Act, *supra* note 183, § 6(2)(a).
- 452 OBČIANSKY ZÁKONÍK [CIV. CODE], art. 11.
- 453 Charter on Patients' Rights, *supra* note 292, arts. 1.1, 7.2 .
- 454 *Id.* art. 2.9.
- 455 European Convention on Human Rights and Biomedicine, *supra* note 328, art 10.2.
- 456 Explanatory Report on the Convention on Human Rights and Biomedicine, *supra* note 405, ¶ 66.
- 457 WHO, *Declaration on Patients' Rights*, *supra* note 342, art 4.4.
- 458 Charter of Fundamental Rights, *supra* note 340, art. 8.2. A number of international and regional instruments ensure access to data that is computerized, automated, or processed, particularly in the context of medical data. See *Guidelines for the Regulation of Computerized Personal Data Files*, G.A. Res. 45/95, U.N. GAOR, 45th Sess., 68th Plenary Mtg., U.N. Doc. A/RES/45/95 (Dec. 14, 1990); *Recommendation No. R(97)5 of the Committee of Ministers to Member States on the Protection of Medical Data*, 584th mtg of Ministers' Deputies, § 8.1–8.2, Rec. No. R(97)5 (Feb. 13, 1997); Council Directive 95/46/EC on the Protection of Individuals with Regard to Processing of Personal Data and on the Free Movement of Such Data, § IV, art. 10(c), § V, art 12(a), 1995 O.J. (L 281) 31. One can argue that this principle, which protects individuals whose data is kept in processed form, would also provide protection to individuals with data in manual form.
- 459 Civil and Political Rights Covenant, *supra* note 310, art. 17; Universal Declaration, *supra* note 318, art. 12; See also Human Rights Committee, *General Comment 16: Article 17* (32nd Sess., 1988), in

Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies, at 129 ¶ 10, U.N. Doc. HRI/GEN/1/Rev.5 (2001), which provides support to the application of this provision to the right to access records. The Committee stated that “[i]n order to have the most effective protection of his private life, every individual should have the right to ascertain in an intelligible form, whether, and if so, what personal data is stored in automatic data files, and for what purposes. . . .”

460 European Convention on Human Rights, *supra* note 327, art. 8.

461 *See* Case of McGinley and Egan v United Kingdom 1998-III Eur. Ct. H.R. (1998), finding that Article 8 is applicable to applicants’ request for access to documents from the state on nuclear testing in order to determine whether they had been exposed to radiation; Case of Gaskin v. United Kingdom A160 Eur. Ct. H.R. (1989), finding a Article 8 violation when applicant was denied access to case file that contained information on him during the period when he was under care of the state during childhood.

462 Case of M.G. v the United Kingdom, at <http://www.echr.coe.int/eng> (Sept. 24, 2002). In this case, the state only provided summary information and the applicant desired unimpeded access to confirm his belief that he was physically abused when younger and to deal with the emotional and psychological impact of any abuse. The Court found that such social service records related to applicant’s private and family life.

463 Case of M.G. v the United Kingdom, ¶¶ 30-31, at <http://www.echr.coe.int/eng> (Sept. 24, 2002). Note however, that a subsequent law had been implemented from the time of applicant’s denial, which he did not use to appeal the denial of access to records. Therefore, the Court noted that applicant did not demonstrate the state’s failure to fulfill its positive obligation because of subsequent developments.

464 Health Care Act, *supra* note 183, § 16(1).

465 *Id.* § 16(2).

466 *Id.* § 16(6).

467 Charter on Patients’ Rights, *supra* note 292, arts. 3.4–3.6.

468 OBČIANSKY ZÁKONÍK [CIV. CODE], art. 31, para. 1.

469 For example, the law on election explicitly requires the voters to vote personally. See Law 80/1990 of the Coll. On Election to Slovak National Council (Mar. 16, 1990), art. 28, para. 1

