

**Global Detention Project Submission
to the UN Committee on the Rights of the Child**

72nd Session (17 May 2016 - 03 Jun 2016)

**Consideration of State Report – Slovakia
(combined third, fourth, and fifth period report)**

Geneva, 13 April 2016

ISSUES CONCERNING IMMIGRATION DETENTION

The Global Detention Project (GDP) welcomes the opportunity to provide information for consideration of the combined third, fourth and fifth periodic reports of Slovakia (CRC/C/SVK/3-5) submitted to the UN Committee on the Rights of the Child (Committee) on 16 September 2015. The GDP is an independent research centre based in Geneva that investigates immigration-related detention.¹ As per the GDP's mandate, this submission focuses on the State party's laws and practices concerning detention for immigration- or asylum-related reasons.

This submission is made under Article 45(a) of the Convention on the Rights of the Child and mainly focuses on implementation of CRC Article 37 (b)(c)(d) on deprivation of liberty. Following the Day of General Discussion on The Rights of All Children in the Context of International Migration in 2012, the Committee endorsed the recommendation that "the detention of a child because of their or their parent's migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child. In this light States should expeditiously and completely cease the detention of children on the basis of their immigration status."²

The [2011 Act on Residence of Aliens](#), which entered into force in January 2012, regulates Slovakia's migration policy, including entry requirements, visa, expulsion, and immigration detention. The Act on Residence of Aliens provides separate immigration regimes for unaccompanied children and children migrating with their parents.

¹ For more information about the GDP, see <http://www.globaldetentionproject.org>.

² UN Committee on the Rights of the Child, *Report of the 2012 Day of General Discussion on the Rights of All Children in the Context of International Migration*, February 2013, para 78 www2.ohchr.org/english/bodies/crc/docs/discussion2012/2012CRC_DGD-Childrens_Rights_InternationalMigration.pdf.

Unaccompanied children

According to article 88(9) of the Act on Residence of Aliens, unaccompanied minors may not be detained. Reportedly they are placed in shelters for unaccompanied minors, while in the past orphanages were used to accommodate them.³ According to the Human Rights League, approximately 140-200 unaccompanied children are apprehended every year in Slovakia, of whom around 90 percent disappear from the shelter.⁴ These findings were also corroborated by the European Migration Network (EMN) Contact point for Slovakia.⁵

Key Questions: Where exactly are unaccompanied minors placed? Is the personnel of these establishments trained to be sensitive to the needs of foreign children? Do official statistics collaborate reports that around 90 percent of unaccompanied minors disappear from care institutions? Are any measures being taken to prevent disappearance of children from these establishments?

Age determination procedures in Slovakia rely on bone analysis and are unreliable, especially with respect to children between 16-18 years old. A 2013 study discussing these procedures reported cases in which the age determination proceedings led to results that were later contradicted by personal documents. In 2012, 85 age assessment procedures were conducted of which 56 concerned Somalis and 12 Afghans.⁶

Key Questions: Does the State party consider removing the presumption of majority from the legislation? What are the legal ways to challenge the decision taken based on the medical age assessment procedures?

Accompanied children

Pursuant to article 88(4) and (9)) of the Act on Residence of Aliens, families with children may be detained when it is strictly necessary for the shortest time possible. The law states that family detention can last up to six months. The Act on Residence of Aliens provides for two non-custodial alternatives to detention, including release on bail and reporting obligations (Act on Residence of Aliens, article 89). The Human Rights League and the Forum for Human Rights have observed that in practice alternatives to detention are rarely applied because the

³ Human Rights League (HRL) and Forum for Human Rights (FORUM), *NGO information to the United Nations Human Rights Committee on immigration detention of families with minor children and other harmful detention practices in Slovakia*, December 2015, http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/SVK/INT_CCPR_ICS_SVK_22722_E.pdf.

³ European Parliament, *The conditions in centres for third country national (detention camps, open centres as well as transit centres and transit zones) with a particular focus on provisions and facilities for persons with special needs in the 25 EU member states*, IP/C/LIBE/IC/2006-181, December 2007, http://www.aedh.eu/plugins/fckeditor/userfiles/file/Asile%20et%20immigration/Study_of_European_Parliament_about_detention_and_enferment_in_Europe.pdf.

⁴ Human Rights League, *Disappearing children*, Website, 2016, <http://www.hrl.sk/projekty/miznuce-deti-disappearing-children>.

⁵ EMN Contact point for Slovakia, *Policies, practices and data on unaccompanied minors in 2014: contribution of the Slovak Republic*, 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/24a_slovakrepublic_uams_study_english.pdf.

⁶ Katarína Fajnorová and Zuzana Števílová, *DIETĀ ALEBO DOSPELÝ?*, 2013, http://www.hrl.sk/sites/default/files/publications/hrl_dieta_alebo_dospely.pdf.

person must prove that he or she has accommodation and daily financial resources of at least 56 Euros per day. These requirements have reportedly resulted in families with children being systematically detained for lengthy periods.⁷

Key Questions: How many accompanied children were detained in 2014 and 2015? What was the average length of their detention? How many accompanied children benefited from alternatives to detention in 2014 and 2015? Has the State party considered easing the conditions to be met to benefit from alternatives to detention for families with children?

Article 94(3)) of the Act on Residence of Aliens provides that families are to confined together as a unit; in cases in which family members are separated authorities are to ensure that the consequences of the separation are proportionate to the needs. Slovakia operates two immigration detention centres, in Medved'ov and Sečovce. Reportedly families with children are placed in Sečovce facility, which has a specific section for this purpose. However, according to human rights advocates, in 2015 the section was at capacity and authorities confined families with children also in other parts of the Sečovce centre as well as the Medved'ov centre, which does not have specific arrangements for confining families with children. Children have access to education only after three months in detention.⁸

Key Questions: What is the set-up of the specific family section in the Sečovce centre? What is the capacity of that section? Do the authorities continue detaining families with children in other parts of the Sečovce centre and at the Medved'ov centre? If so, how do the authorities guarantee adequate privacy and separation of minors from unrelated adults? Has the State party considered providing access to education for children from the start of their stay in detention?

⁷ Human Rights League (HRL) and Forum for Human Rights (FORUM), *NGO information to the United Nations Human Rights Committee on immigration detention of families with minor children and other harmful detention practices in Slovakia*, December 2015, http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/SVK/INT_CCPR_ICS_SVK_22722_E.pdf.

⁸ Human Rights League (HRL) and Forum for Human Rights (FORUM), *NGO information to the United Nations Human Rights Committee on immigration detention of families with minor children and other harmful detention practices in Slovakia*, December 2015, http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/SVK/INT_CCPR_ICS_SVK_22722_E.pdf.