

**NGO information to the United Nations Human Rights Committee
on islamophobia, immigration detention including single women,
vulnerable persons and families with minor children and
the situation of unaccompanied minors in Slovakia**

**For consideration when compiling the Concluding Observations on the
Fourth Periodic Report of Slovakia under the International Covenant on
Civil and Political Rights**

Submitted together by the
Human Rights League (HRL) and Forum for Human Rights (FORUM)

19 September 2016

INTRODUCTION

1. This written submission provides information on several issues of great concern with regard to Slovakia's compliance with the provisions of the International Covenant on Civil and Political Rights (hereinafter "ICCPR"). This report is primarily focused on the **immigration detention of vulnerable groups** such as families with minor children and practices related to possible immigration detention of unaccompanied minors whose age has not yet been determined in the detention centre for adults. This report also addresses the **situation of unaccompanied minors** in Slovakia. This report is supplementary to the one already submitted to the Committee on 18 December 2015 for complication of list of issues. It reflects the issues identified by the Committee in the LOI.
2. Furthermore, this report provides overview of other issues related to non-citizens in Slovakia, such as islamophobia and xenophobia, hate crimes and legal aid to victims of crimes, immigration detention and alternatives to detention.
3. The submission has been written jointly by two non-governmental organisations, the Human Rights League¹ and the Forum for Human Rights², and is aimed to assist the Human Rights Committee with its consideration of Slovakia's Fourth Periodic Report.

I. ISLAMOPHOBIA, HATE SPEECH AND HATE CRIMES

4. We would like to highlight **dramatic rise of islamophobia and xenophobia in Slovakia and incidents of hate crimes and hate speech**. In 2015 and 2016 we have monitored extreme anti-Muslim and anti-immigrant rhetoric from many political leaders and parties including these of major political leaders. For example, as quoted by Politico, Slovak prime minister Mr. Robert Fico declared that "Islam has no place in Slovakia" in the interview for Slovak Press Agency TASR (<http://www.politico.eu/article/robert-fico-islam-no-place-news-slovakia-muslim-refugee/>) in May 2016. Also, media reported on his previous comments, including one on monitoring every Muslim in Slovakia, in November 2015 (<http://www.aktuality.sk/clanok/308295/>)

¹ **Human Rights League (HRL)** is a civic association established in 2005 by lawyers and attorneys dedicated to providing legal assistance to foreigners and refugees in Slovakia with aspiration to support building of transparent and responsible immigration, asylum and integration policies respecting human rights and dignity. The HRL combines provision of direct services - quality and free-of-charge legal aid to migrants and refugees in Slovakia with advocacy and strategic litigation in relation to establishment, development and implementation of immigration, asylum and integration policies in Slovakia. The HRL also strives to contribute to education of new generation of young lawyers knowledgeable and skilled in the area of asylum and immigration law. Human Rights League cooperates with Trnava University Law Faculty facilitating its Asylum Law Clinics.

² **Forum for Human Rights (FORUM)** is an international human rights organisation working in the Central European region. It provides support to local NGOs and leads their domestic and international litigation. FORUM has been supporting a number of cases pending before domestic judicial authorities, inter alia on access to justice or on the protection of vulnerable groups against torture and ill-treatment in different settings. FORUM conducts international advocacy before the UN bodies especially in order to promote rights of vulnerable people, and co-authored number of alternative reports, inter alia for the UN Committee on the Rights of Persons with Disabilities, UN Committee on Elimination of Discrimination against Women, the Council of Europe Committee of Social Rights.

[mame-zacat-nosit-zeleny-polmesiac-moslimov-poburili-ficove-slova-o-ich-kontrole/](#)).

There were many other politicians and public leaders who express publicly very extreme opinions on refugees, migrants, Muslims, linking them directly to international terrorism. Hate speech has been on the rise also in relation to other minorities in Slovakia, notably Roma and LGBTI, without the perpetrators being held accountable for their hate speech (<https://dennikn.sk/553396/vyrok-kotlebovho-poslanca-mazureka-k-holokaustu-po-policii-neprekaza-ani-prokurature/>) .

5. In June 2016, HRL in cooperation with other civil society actors initiated **extraordinary meeting of advisory governmental committee VRAX - Committee on Prevention and Elimination of Racism, Xenophobia, Anti-Semitism** and other forms of Intolerance; in order to tackle and consult the situation in the society. We invited Islamic foundation and Caritas Slovakia, whose social worker was attacked on public while accompanying refugee to doctor to report on increase of incidents of hate speech and hate crimes. In following **public declaration**, members of VRAX noted the incidents of hate speech and hate crimes and condemned them (<http://www.hrl.sk/aktuality/vybor-pre-predchadzanie-eliminaciu-extremizmu-rasizmu-odsudil-prejavu-nenavisti>).
6. **Incidents of racial/ethnic discrimination, hate speech and hate crimes have been routinely reported** by media (here: <https://dennikn.sk/527569/bratislavsky-hotel-odmietol-ubytovat-tureckych-studentov-velvyslankyna-hovori-o-rasizme/> or here: <https://dennikn.sk/187827/nadaval-do-utecenky-n-zlomil-palickou-sanku/>). Recently, media reported on initiative of MP Mr. Podmanický from governmental party SMER-SD, to ban building of places of worship unless approved by Ministry of Culture and Slovak Intelligence Agency, which several experts condemned as discriminatory (<http://www.cas.sk/clanok/443373/poslanec-smeru-jan-podmanicky-tiahne-do-boja-proti-islam-zakazu-zakonom-stavbu-mesit/>).
7. In our opinion, extreme and radical rhetoric of many political leaders and public actors in Slovakia **has contributed to radicalization of public**, resulting in **acts of physical violence against minorities**. In September 2016, HRL highlighted the **case of female Somali refugee living in Slovakia, Khadra Abdile**, who has been attacked 6 times over 1 year at public space due to her being visibly Muslim and visibly foreign (<http://domov.sme.sk/c/20264509/bratislavska-mhd-somalcanku-napadli-sestkrat.html>). Some of these attacks are currently under investigation, without perpetrator being identified.
8. In relation to above mentioned, we would like to note that the State Party has been obliged to transpose **EU Directive 2012/29/EU on victims of crime by 16 November 2015** with the aim to considerably strengthen the rights of victims and their family members to information, support and protection and victims' procedural rights in criminal proceedings. The Directive also requires that the Member States ensure appropriate training on victims' needs for officials who are likely to come into contact with victims and encourage cooperation between Member States and coordination of national services of their actions on victims' rights. This directive has been transposed **only partially**, HRL opposed this transposition (<http://lt.justice.gov.sk/Document/DocumentDetailsReviewEvaluationDetail.aspx?>

[instEID=43&matEID=8361&drCommentDocEID=440927&langEID=1&tStamp=20150827112909240](#)). This results in the situation where **in practice, victims of crimes, including victims of hate crimes, have no access to free legal aid** and other services envisaged by the Directive.

❖ **In relation to above mentioned, we would like to recommend to the Committee to strongly urge the State Party to**

(a) Immediately apply measures to visibly promote tolerance and inclusive environment towards ethnic, racial, religious and other minorities.

(b) Use legislative, policy and educational measures, including sensitization and awareness-raising, to end stigmatization of Roma, Muslim, LGBTI and other minorities.

(c) Investigate and sanction all cases of political figures and religious leaders using anti-Roma and anti-Muslim rhetoric as well as offensive discourse targeting sexual orientation and other discriminatory behaviour, including hate speech and hate crimes;

(d) Ensure that law enforcement officials and legal professionals are adequately and systematically trained to effectively investigate and sanction hate crime, including in social and other media;

(e) Ensure that victims of crimes, including victims of hate crimes, receive appropriate care and support including access to free legal aid in criminal procedure and to other services.

II. IMMIGRATION DETENTION

9. In Slovakia, foreign nationals are detained by the administrative decision of a foreign police.³ According to Law on residence of foreign nationals, families with children and other vulnerable persons can be detained only when strictly necessary for the shortest possible time.⁴ The law provides that detention should be the measure of last resort and that the police should always consider application of less restrictive measures (alternatives to detention).⁵

10. **The alternatives for detention are rarely used in practice.** In Slovakia, two alternatives to detention are provided by law – financial guarantee and report of residence.⁶ However, the law makes it practically impossible for ordinary persons to be provided with alternative for detention in the form of reporting the residence, mainly due to the obligation to have (i) accommodation and at the same time (ii) to

³ Law no. 404/2011 Coll. on residence of foreign nationals, as amended, Section 88 et seq.

⁴ *Ibid*, Section 88(9).

⁵ *Ibid*, Section 89 (3).

⁶ *Ibid*, Section 89 (3).

have financial coverage for every day of stay in the amount of 56 € per day⁷. It is worth to mention that minimal life subsistence in Slovakia in 2015 was 198.09 € per adult person.⁸ However, an adult immigrant, whose detention decision is determined for say 30 days, would have to prove to have at least 1 680 € in cash in order to be granted alternative to detention in form of residence reporting.

11. Since July 2016, courts in Slovakia have a power to decide on application of alternatives to detention if the conditions are met; however we have not monitored any such case up-to-day. The preference for detention is visibly present in cases of so-called Dublin transfers, where we are not aware of any case when alternative to detention has been applied.
12. Moreover, in June 2016, the State party was informed on the decision of Hungary to suspend all Dublin transfers (information on decision of Hungarian government: <http://www.asylumlawdatabase.eu/en/content/slovakia-suspension-dublin-returns-hungary>). We have monitored that since that time, asylum seekers coming from Hungary (who applied for asylum in Hungary and are trying to come to other member states of EU) have been routinely detained, not to enforce Dublin transfer but based on the decision on their administrative expulsion to home countries, including Afghanistan, Iran or Pakistan. The Syrians are being issued decisions on administrative expulsion to “any other country, which will agree to take them”. We believe that such practice violates protection against *refoulement* as the persons applied for asylum at the territory of the one of the member states of EU. Until their asylum application is determined (suspending the transfers by Hungary does not mean that their asylum application has been resolved) there are reasons to believe that there could be a risk of violation of their rights if deported.
13. Upon a placement in detention facility, the detained persons have confiscated their mobile phones and they can use the telephone machines on coins only (1 machine in each sector). The access to internet is scarcely provided, mainly in the case of implementation of projects by NGOs and under supervision. We believe such regime seriously restricts and violates rights of the detainees to maintain family and private life, access to information and increase the prison-like perception of detention by detainees.
14. The law provides that when released, detained persons have to pay to cover the costs of their detention, particularly the food that has been provided.⁹ When released, persons are being charged to cover the costs routinely.
15. The supplementary services in the detention centres are provided based on currently implemented NGO projects, financed from EU funds. The services include social and

⁷ Decree of the Ministry of Interior of the Slovak Republic no. 499/2011 of 15 December 2011 on determining the amount of funds needed to cover the costs of residence of third country to the territory of the Slovak Republic.

⁸ <http://zivotneminimum.sk/>

⁹ Law no. 404/2011 Coll. on residence of foreign nationals, as amended, Section 91(3).

psychological counselling, leisure and educational activities, supplementary material assistance and medical care. However, since July 2015 until November 2015, when both detention centres were at their full capacity, no such projects were implemented and were only partially replaced by the governmental resources. At the same time, in relation to refugee crisis, the numbers of detainees have risen extraordinary, but no reinforcement of social services, provision of crisis interventions, visits of psychologists, cultural mediators and regular access to interpretation have been secured.

16. The law provides that detainees are covered by public health insurance provided by the State, but detainees need to pay for certain medical interventions and medication.¹⁰ The **medical care** is provided by presence of nurse every working day and regular visits by doctor. However, **communication problems** were reported frequently as the medical personnel does not speak English and **interpreters and/or cultural mediators are rarely called by the centres to interpret during medical check-ups**.
17. We believe that detention centre in Medvedov is **not suitable to single women and for vulnerable persons**. The staff of detention centre is predominantly male and atmosphere is prison-like. The detention centres do not employ interpreters and cultural mediators and few employees are able to communicate other language than Slovak or Hungarian. There are frequent problems with communication, especially in relation to medical personnel and interpretation is routinely not provided, or interpretation is secured by another detainee. Access to psychological services is very limited and conditions for different vulnerabilities (mental health problems, long-term non-life threatening diseases, trauma survivors, ...) very difficult as none of the permanent staff of the detention centres has expertise to handle such cases. However, due to the fact that alternatives to detention are not systematically used and preferred by the State authorities, no alternative centres and alternatives systems are currently being created or run in Slovakia.
18. Currently, there are single women placed in the detention centre in Medvedov and they are detained for prolonged periods of time. Furthermore, they are hold in detention also after they do submit the asylum application. Even though they are placed in separate part of the centre, it means they are not in the same corridor with men, they do meet with men every day in the common premises, e.g. during lunch. Women complain that detained men harass them verbally and staring at them.
19. Sometimes, single woman is placed alone in the centre. Recently, we have monitored two cases of women who were placed in the detention centre for several weeks alone, meaning even without a presence of another women. They both did bear it very hard, both psychologically and emotionally. They both were asylum seeking women. After they submitted asylum application, HRL requested the police to place them in reception centre for asylum seekers. Police always waits at least two months after the asylum application is submitted until they decide on the placement in asylum facility.

¹⁰ Law no. 499/2011 Coll. on health insurance as amended, Section 3(3)(f)

That is because the Migration Office has two month to issue the decision in case the asylum application is inadmissible.

There is very **limited access to health care** and hardly any access to psychological support in Medvedov detention centre. One of the women complained she was provided with the male underwear. In summer, female detainee from Iran applied for seeing gynaecologist for prolonged bleeding. She waited for appointment for several weeks. To ensure the medical examination, lawyer of HRL had to personally interfere and urge doctor and detention centre to schedule an appointment. However, when transferred to medical appointment to gynaecologist, no interpretation has been provided, and woman refused to undergo medical examination not understanding its meaning. New appointment had to be scheduled.

20. Although women have separate sector in detention centre Medvedov, we have monitored cases in which they were held in “medical rooms” in main building, which are aimed to house sick individuals. They were locked up in the room except for lunch and walk outside. If they wanted to leave the room to eg. use toilet or to make a phone call etc. they would have to call the guards to allow them to use the toilet every time. The reason for such placement was that there was very few numbers of female detainees or reconstruction of female sector.
21. We believe that single women refugees and vulnerable persons should not be detained. Based on these facts we are convinced the detention of women migrants and vulnerable persons should be used only as the measure of last resort and all asylum seeking women and vulnerable persons should be placed in facilities for asylum seekers immediately after they submit asylum application
22. Another issue concerns practice of **systematic handcuffing** of migrants who are detained. We observed that almost every migrant who is detained is subjected to handcuffs and even special belt when transported, including women and parents of minor children. Handcuffs are routinely ordered and not used only exceptionally.
23. We would also like to draw the Committee’s attention to Report of the Slovak Defender of Rights¹¹ who performed investigation of the **incident of police violence in the Medved’ov** detention centre of 3 September 2015, and found a number of violations of detainees’ rights, including inappropriate use of force. The Government did not mention this report in its reply to the LOI. No person has been held liable for these violations.
24. The Slovak Defender of Human Rights also monitored the **solitary confinement** in Detention centre Medved’ov and concluded that it does not meet the international standards.¹² In particular, the Defender noticed that system of treatment with persons

¹¹ Slovak Defender of Rights, Notification about results of investigation of police intervention and proposition of measures to be taken, no. 2527/2015/VOP, 25 September 2015.

¹² Slovak Defender of Rights, Notification about results of investigation regarding the placement of detained third country nationals in the solitary confinement and proposition of measures to be taken, no. 2627/2015/VOP, 29 October 2015.

placed in solitary confinement has **prison-like character** (pg.6, first column), and that this **system is dehumanised and allows for their degradation** – constant monitoring, full lightening of the cell whole day including night, constant camera recording of whole cell including toilet, staying in one small empty room interrupted by short walk in small empty fenced and guarded yard (pg. 6, last column). The report further continues with other findings. The Human Rights League has the copy of the whole report in Slovak for disposal.

Situation of families with children in immigration detention

25. **Slovak authorities routinely detain migrant families with minor children and other vulnerable groups in the immigration detention centres which are not accommodated to their needs.** Although minor children cannot be formally detained, children of parents who are in an irregular position are detained together with their parents in the detention centre for several months.¹³ Families with children can be detained for up to six months.¹⁴ In practice, the foreign police routinely detain families with children for **prolonged periods of several months** and not for “the shortest possible time”. The HRL observed cases when the foreign police set the duration of detention for a family with minor children for five or six months from the very beginning.
26. The **alternatives to detention are not being applied to families with children** and no special system to ensure their application such as support to community or family centres for such families currently exists.
27. There are two immigration detention centres in Slovakia, in Sečovce¹⁵ and Medved'ov¹⁶. **None of the detention centres is suitable for accommodation of families with children or other vulnerable persons.** Both centres are operated and guarded by the foreign police and have strict **prison-like regime**. The centres are surrounded by barbed wire and all windows are wired. The detained persons, including children, can move freely only within the designated sector and have allowed **access to open air only twice a day for one hour** under supervision of uniformed police guards.¹⁷ Children with parents are escorted for having a meal twice or three times a day. There is a minimum of civil personal in these centres. The families with children are constantly guarded by uniformed police, even during visit of physician or during one hour walks in the open air. Even the only playground in Sečovce detention centre is surrounded by wire.

¹³ Unlike unaccompanied minors who are placed in the special child home for unaccompanied minors.

¹⁴ *Ibid*, Section 88(4).

¹⁵ **Police Detention Centre in Sečovce** is located in eastern Slovakia, 60 km from the Ukrainian border. It has capacity to detain 176 persons with possibility to increase the capacity to 184 persons.

¹⁶ **Police Detention Centre in Medved'ov** is located in southwest Slovakia, on the border with Hungary. It has capacity to detain 152 persons, with the possibility to increase the capacity by 40 more places.

¹⁷ Law no. 404/2011 Coll. on residence of foreign nationals, as amended, Section 96(1).

28. Several families complained about insufficient medical treatment. Moreover, there is **no psychologist** or any other relief services in neither of the detention centres unless provided by NGOs through projects. There is only one social worker in the Sečovce detention centre and one in Medved'ov detention centre who shall secure communication with all the detained persons. The HRL observed serious deterioration of psychological state of parents as well as children resulting from their detention.
29. The children detained less than three months have no access to official system of education in Slovakia.[1] That means that during the first three months of their detention, children are not educated, but are provided with free time and educational activities. At the time when capacities in detention centre Sečovce reached their peak in summer 2015, the leisure activities were secured only on voluntary and ad hoc basis by non-governmental organisations. Provision of leisure and free time activities for children is not regular and children detained with their parents have no meaningful activities to spend their time in detention. The organisation of free time and leisure activities has become better after the new funding scheme from EU funds has been secured in November 2015. In July 2016, we advocated to change in the law, which – if adopted – will now presume that children in detention shall have access to education no later than 3 months since detention. It remains to be seen, if in fact, changed wording will have any effect for earlier access of detained children to education.
30. The statistics on number of detained families with children, on reason and length of their detention **are not publicly available**. They are gathered by the Foreign Police Directorate.
31. In our previous report, we highlighted the international human rights standards in the area, included that adopted by the Committee and other UN treaty bodies (see paragraph 17 et seq.). We would like to point out that on 20 July 2016 the **Committee on the Rights of the Child** adopted concluding observations in respect of Slovakia in which it recommended to the Slovak Government to:
- **Expediently and completely discontinue the detention of children** on the basis of their or their parents' immigration status and provide alternatives to detention that allow children to remain with their family members and/or guardians in non-custodial, community-based contexts, without requiring proof of the availability of unreasonably high daily subsistence funds;
 - Ensure the rights of all asylum-seeking and refugee children to an adequate standard of living, education and health care free from discrimination, including on religious grounds.¹⁸
32. As mentioned above in June and July 2016 we have commented on the legislation and introduced our recommendation to eliminate the practice of detention of families with children. Ministry of Interior welcomed our proposals and agreed that it is necessary to balance the public interest to prevent irregular movememtn of families with

¹⁸ UN CRC, Concluding observetions Slovakia, CRC/C/SVK/CO/3-5, 20 July 2016, § 53.

children on one hand and individual right of a child to avoid stay in the environment which has harmful impact on a child on the other side. Ministry of Interior plans to establish the third detention centre which should serve as a community-based family detention centre. The regime and conditions therein should adjust to the needs of the children in various age groups. Ministry was however not willing to commit to any time and financial frame for establishment of such centre.

33. We therefore kindly ask the Committee to vigorously review practice of the Slovak Republic with regard to migrant families with minor children, single women and vulnerable persons and issue the following recommendations:

- ❖ **The Committee urges the State Party to immediately stop placing families with children, single women and vulnerable persons in the immigration detention and to amend legislation in order to prohibit immigration detention of families with children, single women and vulnerable persons.**
- ❖ **The obligatory system for identification of vulnerable persons shall be created and authorities shall be systematically educated to identify vulnerable persons in detention.**
- ❖ **If single women are detained, safe environment shall be created, including regular access to interpreters and cultural mediators, medical, social and psychological assistance and free legal aid.**
- ❖ **The Committee recommends the State Party ensures that detention centres provide regular access to interpretation and cultural mediation within its premises and that interpretation and translation is provided for medical appointments on regular bases.**
- ❖ **The Committee urges the State Party to create and actively use alternatives to detention suitable for families with children, single women and vulnerable persons and provide appropriate services, including medical, social and psychological services to be available.**
- ❖ **The Committee recommends the State Party to gather and publish statistics on the number of families with minor children apprehended by immigration authorities, the reason of their apprehension and the decisions taken with regard to them.**
- ❖ **The Committee invites State Party to provide information about details of the plan for establishment of the third detention centre, about its planned character, regime and conditions therein. In case the centre shall host families with children, the Committee recommends to establish the working group consisting of experts on children care including NGOs and Coalition for Children of Slovakia, which will jointly prepare the plan for the regime and conditions of the centre in order to fully satisfy the needs of children.**

III. SITUATION OF UNACCOMPANIED CHILDREN IN SLOVAKIA

34. After submitting our previous report to the Committee, we have monitored several cases where foreigners whose age was disputed were detained in the Medved'ov Detention Centre together with adults for prolonged periods, until their age was finally determined. The reason for this is the existence of the **“presumption of majority”**, it means that a foreigner claiming to be minor, whose age is disputed, is considered adult and treated as adult during age assessment examination. In Slovakia, **unaccompanied minors cannot be detained according to the law**. Due to the on-going practice on age assessment connected with the **presumption of majority** of children found or captured on the Slovak territory without parents or legal representatives and in no possession of identification documents, who are not visibly minor-looking, there were cases of placement of unaccompanied children in detention with adults.
35. Pursuant to Article 111(6) of the Act No. 404/2011 Coll. on Residence of Foreigners, a foreigner who claims to be an unaccompanied minor must undergo a **medical examination** to determine his/her age, unless it is obvious that the person is a child. Article 127 of the Act on Residence of Foreigners states that if a person refuses to undergo a medical examination, he/she shall be considered to be an adult for the purposes of the proceedings under this Act, and if he/she agrees to the medical examination, he/she shall be considered to be an adult until the results of the examination prove the contrary. This **“presumption of majority”** we do see as very problematic. As described above, the person whose age is disputed can be placed in detention centre. Also, no guardian is appointed to him/her, and **there are no procedural guarantees**. Police based on the medical report of the radiologist considers the person to be adult **without issuing any decision, which could be appealed** by the foreigner. The method used for age assessment is the **ossification test** (wrist X-Ray), which may also be complemented by dental analysis. This method of age assessment does not take into account psychological, cognitive or behavioural factors. There are several decisions of the Trnava District Court, according to which the participation of an anthropologist in the age assessment examination would yield the outcome of the age assessment more credible. Also, in the recent case, when there was in Medved'ov detention centre a boy claiming to be 15 years of age, one NGO objected that pure wrist X-ray examination is not sufficiently reliable method. The complaint to the local public prosecutor office was submitted, and the public prosecutor ordered police to provide proper anthropological examination and expert opinion in the case. Later, in the case of another case of another boy claiming to be 16, foreigners' police did appoint anthropologist for assessment. However, these were two recent cases, in relation to Medved'ov detention centre, and not an established practice applied in whole Slovakia. Most medical examinations are done at the border and wrist X-ray examination is applied only.
36. We strongly recommend the Slovak authorities to review the age assessment procedures, ensuring that the best interests of the child are effectively protected, and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child. National Action Plan for Children

for the years 2013-2017 in its point 7.25 enacts the following measure(s): creation of the interministerial working group for the purpose of reconsideration and revision of the age assessment methods and procedures. This working group was created and met once at kick-off meeting in 2014. Since then, the group is inactive and there are no outcomes of its work.

37. We would like to draw the Committee's attention also to the problem of **disappearances of unaccompanied minors from child care facilities**. Most unaccompanied minors still disappear. We have observed that the searching practices of the police did improve and many of the disappeared UAMs are found and returned to the foster home; however, later they do disappear/ escape again. More effective and systematic measures need to be adopted in order to prevent repeated disappearances, including use of cultural mediators on regular basis. Currently, **UAMs are placed in institutional care – foster homes. Only small children, up to the age of 6, are placed with families**. We believe that all UAMS should be placed **preferably with families and institutional care should be used only as the measure of last resort**. Also, foster homes do not employ cultural mediators and do not work with established communities of foreigners who can act as cultural mediators. This may be one of the reasons why children do not trust authorities and tend to disappear.
38. Another identified problem is **legal representation of unaccompanied minors in the asylum procedure** at the first instance, it means before the Migration Office of the Ministry of Interior of the Slovak Republic. In accordance with § 29 (4) of the Act No. 305/2005 Coll. on the Social and Legal Protection of Children, responsible body of social and legal protection of children is obliged to a) provide to unaccompanied child legal counselling **based on the child's request**, and b) provides legal help to the child based on the § 24a of the Act No. 327/2005 Coll. on the Provision of Legal Help to the People in Material Need. These provisions do give some guarantee to the unaccompanied child in order to access legal help, however, two main problems do appear in practice: 1) the child needs to request the legal counselling, otherwise the responsible authority is not obliged to provide it, and 2) legal help based on the above mentioned provision of the Act on the Provision of Legal Help to the People in Material Need guarantees legal representation only in front of the court (not at the first instance at the Migration Office) and it is provided by state institution - Centre for Legal Aid, which is the institution established by law to provide wide range of services to people in Slovakia, who can prove they are in material need. From our experience it often happens that **unaccompanied minor is represented at the first instance asylum procedure** (in front of the Migration Office) **only by his/her guardian** appointed by a court - the guardian is always local Office of Labour, Social Affairs and Family, who delegates the **social worker** to represent the child. Therefore, **legal representation by a legal practitioner (asylum lawyer or attorney) is often not provided** and it depends on the discretion of the appointed guardian whether he/she decides to appoint a lawyer to the first instance asylum procedure or not. It should be mentioned that there are experienced asylum lawyers working for NGOs as well as attorneys who would be willing to represent unaccompanied minors in asylum procedure for free, however, guardians are reluctant to appoint them.

39. In the light of the foregoing information we invite the Committee to issue the following recommendations:

- ❖ **The Committee strongly recommends the State Party to immediately stop detaining foreigners claiming to be minors, whose age is not yet determined. The Committee invite the State Party to review the age assessment procedures, ensuring that the best interests of the child are effectively protected and to abolish the “presumption of majority” in cases of disputed age, to appoint a guardian in age assessment procedures, and to guarantee all procedural safeguards, including proper decision with possibility to effective remedy. Holistic approach should be used in age assessment and benefit of the doubt should be always applied.**
- ❖ **The Committee advises to guarantee legal representation of every unaccompanied asylum seeking child already at the first instance asylum procedure. The will of the child should be respected when selecting the legal representative.**
- ❖ **The Committee urges the State Party to adopt effective measures to prevent disappearance of unaccompanied migrant children from children’s homes, including:**
 - **placement of UAMs in families; institutional care used only as a measure of last resort,**
 - **adoption of effective and systematic measures to prevent disappearances and repeated escapes of UAMs from foster homes,**
 - **regular use of cultural mediators,**
 - **adoption of durable solutions for unaccompanied minors with regard to their further residence on the territory and integration possibilities, and**
 - **to improve the identification of victims and potential victims of trafficking among separated children.**

Thank you for your attention to these written submissions. If you would like any further information, please contact:

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