



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Communicated on 8 April 2015

FIFTH SECTION

Applications nos 24816/14 and 25140/14
Branko HUDOROVIČ and Aleks HUDOROVIČ against Slovenia
and Ljubo NOVAK and others against Slovenia
lodged on 26 March 2014 and 26 March 2014 respectively

STATEMENT OF FACTS

A list of the applicants is set out in the appendix.

A. The circumstances of the case

The facts of the case, as submitted by the applicants, may be summarised as follows.

1. Application no. 24816/14, Branko and Aleks Hudorovič v. Slovenia

The applicants, father and son, live in an informal Roma settlement in Goriča vas in Ribnica, together with some eighty people. The land on which the Roma community settled thirty years ago is owned by the Ribnica Municipality. In the beginning, the inhabitants lived there in tents, but later some more permanent dwellings have been constructed.

The applicants live in a caravan and have no access to basic infrastructure such as water, sewage, sanitation and electricity. They collect water from the cemetery or the nearby polluted water stream or else they acquire it from other houses. Moreover, due to the lack of sanitation services, the applicants have to use the area around the caravan for defecation; hence, they cannot maintain their privacy, dignity or an appropriate level of hygiene, all of which contributes to frequent health problems.

The applicants, together with other inhabitants of the settlement, have been continuously striving to obtain access to infrastructure. They have attended a number of meetings with the mayor of the Ribnica Municipality and the governmental Office for Minorities (*Urad za manjšine*), but to no avail. As the Goriča vas Roma settlement was established in an irregular manner, the inhabitants have no possibility of acquiring building

permissions and other documents necessary to obtain access to public infrastructure.

Faced with the authorities' failure to take action, in April 2008 the members of the Goriča vas Roma community including the first applicant protested by camping outside the Ribnica Municipality building and eventually obtained the mayor's promise that he would work towards enabling the Roma to be connected to the public water supply system. However, the mayor later stated that the owners of the neighbouring plots of land through which the pipes would require to be laid refused to cooperate.

In 2009, the Ribnica Municipal Council requested the competent national authorities to take over the matters concerning the Roma community in the Goriča vas settlement.

However, the applicants have not as yet been provided the basic utilities, and no further steps have been taken by the authorities in this direction.

2. Application no. 25140/14, Ljubo Novak and others v. Slovenia

The applicants, a family of fourteen, live in the informal Roma settlement in Dobruška vas in the Škočjan Municipality, which is composed of approximately twenty housing units for two-hundred fifty people. It is located on the land belonging mostly to the Municipality and the local Krka Agricultural Cooperative. According to the account provided by the Roma inhabitants and to the report of the Human Rights Ombudsman, the Roma community was moved to the area by the local authorities of the then Novo mesto Municipality in 1963 and has lived there ever since.

The first applicant was born in the settlement, his wife has been living there for twenty years and all of their children were born there, too. They live in a wooden hut located on the land owned by the agricultural cooperative. Like most inhabitants of the Roma settlement, the applicants have no access to basic infrastructure such as water, sanitation and electricity. The lack of clean water results in frequent gastrointestinal diseases, especially among the children. Moreover, due to the lack of sanitation services, the applicants have to use the area around the hut for defecation; hence, they cannot maintain their privacy, dignity or an appropriate level of hygiene, all of which contributes to frequent health problems.

The applicants and other affected members of the Roma community made numerous requests to the local and national authorities in their effort to gain access to basic infrastructure. However, the local authorities explained that their plots could not be connected to the public utilities, as they were classified as agricultural land where construction was not permitted. Therefore, according to the local authorities, it was not possible to issue the Roma inhabitants building permits upon which access to the public infrastructure was conditioned. As for the national authorities, they consistently referred the applicants and other Roma inhabitants to the local authorities, explaining that the matter was within their jurisdiction.

In 2011 the applicants and eighteen other Roma families signed a petition for access to the public water system addressed to the local and national authorities. In response, a plan was prepared providing the Dobruška vas Roma settlement with such access, which was, however, rejected by the Government, since the applicable legislation did not allow for infrastructure

to be provided to illegally constructed buildings. However, it was decided that the Roma settlement would be provided a public water access point.

In the autumn of 2011 such a water access point was constructed on the municipal land and most of the Roma families were able to connect to it. However, the applicants' neighbours did not allow for pipes to be laid through their land and the applicants, who had signed a written agreement with the Municipality undertaking to pay the charges for water use, remained without access to the common water point. Although the local authorities were alerted to the situation, they took no action to resolve the problem; instead, they insisted that the applicants had willingly renounced access to the water point.

B. Relevant domestic law

Members of the Roma community in Slovenia are entitled to individual and community rights as all other citizens of the Republic of Slovenia. Their status is defined as "special ethnic community", entitled to collective, special rights. In this connection, Article 65 of the Constitution of the Republic of Slovenia stipulates that the status and special rights of the Romany community living in Slovenia are determined by a statute.

In 2007, the legislature adopted the Roma Community in the Republic of Slovenia Act adopted which acknowledges the special status of the Roma community in Slovenia and its successful integration into the Slovenian society. The Act further defines the special rights of the Roma community which are accorded to its members in addition to the rights and obligations appertaining to all Slovenian citizens. According to its section 3, the State is to provide for the implementation of the special rights of the Roma community in the areas of education, culture, employment, spatial planning and environmental protection, health and social security, as well as notification and participation in public affairs pertaining to the Roma community. Moreover, the Act determines the competences of national and local authorities for the implementation of those rights and provides for cooperation of the representatives of the Roma community in implementing their rights and obligations as provided by law.

Section 5 of the Act provides that the national and local authorities shall provide for the conditions for spatial planning of Roma settlement issues and improvement of living conditions of the Roma community members. Pursuant to this section, the system of spatial planning of the Roma settlements is to be realised through appropriate planning solutions of primarily local importance. However, the initiative for planning of these settlements may under certain conditions be transferred to or taken over by the Government. The Government itself may enact spatial planning regulations concerning the Roma settlements in cases where legally unregulated settlements in individual local communities either result in posing serious threats to health or a in a long-standing disturbance of the public order or in posing a permanent threat to the environment.

In March 2010 the Slovenian Government adopted a National Programme of Measures for Roma for the Period 2010-2015 in which it stated that the Roma settlements have not been subject to a permanent regulation or controlled development. The absence of comprehensive

measures and the lack of investment funds have resulted, *inter alia*, in poor public utilities. The Government pointed out that under the Spatial Planning Act, the municipalities were required to prepare municipal spatial plans and encouraged them to include the Roma settlements in those strategic plans, so as to provide for the redevelopment of such settlements which were mostly unlawfully occupied and the result of haphazard construction.

COMPLAINTS

The applicants complain under Articles 3 and 8 of the Convention that the settlements where they live do not have access to basic public utilities, such as drinking water and sanitation. Although the applicants do not own the land at issue, their dwellings have been tolerated by the domestic authorities for decades; hence, they are of the opinion that their disadvantaged position should have prompted the authorities to adjust their approach and ensure that they are able effectively to enjoy the same fundamental rights as the majority population.

Moreover, the applicants invoke Article 14 in conjunction with Articles 3 and 8 of the Convention, complaining that the domestic authorities have not taken any steps aimed at eliminating inequality in living conditions of the applicants' communities.

QUESTIONS TO THE PARTIES

1. Was there a violation of Article 3 and/or Article 8 of the Convention on account of the applicants' living conditions, in particular the lack of safe drinking water and sanitation in the settlements which have long been tolerated by the competent authorities? Moreover, has the State adopted a normative framework through which it committed to provide to its inhabitants, and especially to members of vulnerable groups such as the Roma, access to safe drinking water and sanitation? Also, is there a possibility for the applicants to receive the authorities' assistance with a view of improving their living conditions, such as alternative accommodation?

2. Did the competent domestic authorities take any positive steps aimed at eliminating inequality in the living conditions of the applicants and, more generally, the Roma community to which they belong? If not, did the absence of such positive steps amount to a breach of Article 14 in conjunction with Articles 3 and/or 8 of the Convention?

APPENDIX

Application no. 24816/14

Nº.	First name LAST NAME	Birth date	Nationality	Place of residence	Representative
1.	Branko HUDOROVIČ	14/12/1959	Slovenian	Ribnica	N. ZIDAR KLEMENČIČ
2.	Aleks HUDOROVIČ	24/12/2007	Slovenian	Ribnica	N. ZIDAR KLEMENČIČ

Application no. 25140/14

Nº.	First name LAST NAME	Birth date	Nationality	Place of residence	Representative
1.	Ljubo NOVAK	05/08/1973	Slovenian	Škocjan	N. ZIDAR KLEMENČIČ
2.	Dunja KOČEVAR	27/08/1976	Slovenian	Škocjan	N. ZIDAR KLEMENČIČ
3.	Aleksander NOVAK	24/03/2004	Slovenian	Škocjan	N. ZIDAR KLEMENČIČ
4.	Damjan NOVAK	25/09/2012	Slovenian	Škocjan	N. ZIDAR KLEMENČIČ
5.	Gabrijela NOVAK	27/03/2002	Slovenian	Škocjan	N. ZIDAR KLEMENČIČ
6.	Julija NOVAK	15/04/1996	Slovenian	Škocjan	N. ZIDAR KLEMENČIČ
7.	Matjaž NOVAK	21/05/1998	Slovenian	Škocjan	N. ZIDAR KLEMENČIČ
8.	Milena NOVAK	24/02/2001	Slovenian	Škocjan	N. ZIDAR KLEMENČIČ
9.	Mojca NOVAK	17/09/1999	Slovenian	Škocjan	N. ZIDAR KLEMENČIČ
10.	Pamela NOVAK	31/10/1994	Slovenian	Škocjan	N. ZIDAR KLEMENČIČ
11.	Tatjana NOVAK	13/12/2005	Slovenian	Škocjan	N. ZIDAR KLEMENČIČ
12.	Urška NOVAK	03/11/2010	Slovenian	Škocjan	N. ZIDAR KLEMENČIČ
13.	Žan NOVAK	24/08/2007	Slovenian	Škocjan	N. ZIDAR KLEMENČIČ
14.	Žarko NOVAK	10/10/2009	Slovenian	Škocjan	N. ZIDAR KLEMENČIČ