

Third report on Slovenia

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Foreword

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4/5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to propose, if they consider it necessary, amendments to the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 30 June 2006 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

Executive summary

Since the publication of ECRI's second report on Slovenia on 8 July 2003, progress has been made in a number of the fields highlighted in that report. The legal framework against racial discrimination has been strengthened through the adoption of primary antidiscrimination legislation covering different areas of life, whose implementation and monitoring is supported by newly established institutions, including the Advocate of the Principle of Equality. Progress has been made in the field of improving opportunities for Roma children in education, where the authorities have started to implement a strategy adopted in 2004. Work on the preparation of a comprehensive legal framework regulating the rights of the Roma communities in accordance with the Constitution is under way and is expected to be finalised before the end of 2006. The mechanisms for dealing with complaints of police misconduct have been improved and made more transparent. The Human Rights Ombudsman, who has continued to provide invaluable support to members of minority groups, is in the process of focusing activities specifically against discrimination and for the promotion of a positive attitude towards diversity.

However, a number of recommendations made in ECRI's second report have not been implemented, or have only been partially implemented. The situation of those persons who were unlawfully erased from the register of permanent residents in February 1992 has not yet been solved, in spite of a Constitutional Court decision from April 2003 indicating the necessary steps to do so, which has not yet been implemented. In the absence of an overall strategy to simultaneously address all areas where Roma experience disadvantage and discrimination, the members of this group, including those considered by the Slovenian authorities as "non-autochthonous", are still in need of special support in order to enjoy equal opportunities with the rest of the Slovenian population. Ex-Yugoslav minority groups still experience prejudice, disadvantage and discrimination in a number of areas and do not yet enjoy access to opportunities to promote their identity in a way that fully reflects their contribution to Slovenian society. Negative attitudes and generalisations concerning the members of the Muslim communities still appear in public debate, notably in connection with the issue of the construction of a Mosque in Ljubljana, which is long overdue. The protection provided to persons seeking asylum in Slovenia has been weakened by the adoption of amendments to the Law on Asylum in 2006. The increased use of racist, xenophobic and otherwise intolerant discourse in Slovenian politics since ECRI's last report hampers efforts to improve the situation for all minority groups, including those mentioned above.

In this report, ECRI recommends that the Slovenian authorities take further action in a number of areas. These areas include: the need to strengthen the legal framework against racism and racial discrimination, including through ratification of Protocol No. 12 to the European Convention of Human Rights and the introduction of provisions explicitly establishing racist motivation as a specific aggravating circumstance for all offences; the need to improve implementation of the legal framework in force and monitoring thereof; the need to raise awareness of racism and racial discrimination among the authorities and the general public and to work with minority groups to improve their confidence in the institutions. In this report, ECRI also recommends that the Slovenian authorities: fully implement the Constitutional Court's decision concerning the "erased" without further delay; take measures to improve the situation of the Roma population in a number of areas; establish a meaningful dialogue with minority groups wishing to access better opportunities to express their identity; ensure that the practicing Muslim population finally enjoys the use of a proper Mosque. It also recommends that measures be taken against the use of racist and xenophobic discourse in politics.

I. FOLLOW-UP TO ECRI'S SECOND REPORT ON SLOVENIA

International legal instruments

1. In its second report, ECRI recommended that Slovenia ratify Protocol No. 12 to the European Convention on Human Rights (ECHR) as soon as possible. It also recommended that Slovenia become party to the European Convention on Nationality, the Convention on the Participation of Foreigners in Public Life at Local Level and the European Convention on the Legal Status of Migrant Workers.
2. ECRI notes that Slovenia has not yet ratified Protocol No. 12 to the ECHR. Although they recognise the importance of this instrument, the Slovenian authorities report that they do not expect to ratify Protocol No. 12 before the reform addressing the workload of the European Court of Human Rights, which will be competent for monitoring State parties' compliance with the Protocol, is completed. They have also stressed that they do not intend to ratify Protocol No. 12 before its scope has been clarified through the case law of the Court. However, the Slovenian authorities have also stated that they will re-assess the issue of ratification of Protocol No. 12, especially taking into account that Article 14 of the Slovenian Constitution already contains a similar provision¹.
3. As regards the European Convention on Nationality, the Slovenian authorities have pointed out that the principles contained in this instrument have already been included in Slovenian legislation and have stated that they will follow ECRI's recommendation with regard to ratification of this convention.
4. The Convention on the Participation of Foreigners in Public Life at Local Level has not yet been signed. However, the Slovenian authorities have reported that the process towards signature of this instrument is well under way. Slovenia has not yet signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which has entered into force since ECRI's second report, and the European Convention on the Legal Status of Migrant Workers. The Slovenian authorities have reported that these instruments are being examined but there appear to be no immediate plans for signature or ratification.
5. ECRI is pleased to note that Slovenia ratified the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems in September 2004.

Recommendations :

6. ECRI strongly recommends that the Slovenian authorities ratify Protocol No. 12 to the ECHR without delay. It reiterates its recommendation that the Slovenian authorities ratify the European Convention on Nationality, the Convention on the Participation of Foreigners in Public Life at Local Level and the European Convention on the Legal Status of Migrant Workers. It furthermore recommends that the Slovenian authorities ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

¹ See below, "Constitutional provisions and other basic provisions".

Constitutional provisions and other basic provisions

7. As already noted in ECRI's second report, the Slovenian Constitution contains safeguards against discrimination – albeit limited to discrimination in respect of human rights and fundamental freedoms and not in respect of all rights established by law -- and enshrines the principle of equality before the law². The Constitution also contains other provisions that are relevant in guaranteeing protection against racism and racial discrimination³. ECRI notes that the Constitution has provided, including since ECRI's last report, a solid basis for protecting individuals against violations of their rights in areas covered by ECRI's mandate, notably through the case-law of the Constitutional Court⁴. However, it also notes that some of the provisions recommended in its General Policy Recommendations for national constitutions, do not yet feature in the Slovenian Constitution.

Recommendations :

8. ECRI invites the Slovenian authorities to consider strengthening the protection provided by the Slovenian Constitution against racism and racial discrimination. To this end, it draws the attention of the Slovenian authorities to its General Policy Recommendation No.7⁵, notably as concerns the need for constitutions to enshrine “the principle of equal treatment, the commitment of the State to promote equality as well as the right of individuals to be free from discrimination on grounds such as race, colour, language, religion, nationality or national or ethnic origin”⁶.

Criminal law provisions

9. In its second report, ECRI noted that the provisions in force against racism and racial discrimination, including Article 141⁷ of the Criminal Code which prohibits

² Article 14 of the Constitution states that everybody in Slovenia is guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other beliefs, material status, birth, education, social status, disability or any other personal circumstances.

³ Article 13 of the Constitution provides that “in accordance with treaties, aliens in Slovenia enjoy all the rights guaranteed by this Constitution and laws, except for those rights that pursuant to this Constitution or law only citizens of Slovenia enjoy”. The Slovenian Constitution also provides for equality of all persons before any public authority (Article 22) and in access to employment (Article 49). Furthermore, according to Article 16 of the Constitution, temporary suspension or limitation of rights cannot result in inequality based *inter alia* on national origin, race, language and religion. Article 63 furthermore prohibits incitement to national, racial, religious or other inequality and the encouragement of national, racial, religious or other hatred and intolerance.

⁴ See below, “Reception and status of non-citizens – Asylum seekers”, “Conduct of law enforcement officials” and “The situation of the ‘erased’”.

⁵ CRI (2003) 8: ECRI General Policy Recommendation N°7 on national legislation to combat racism and racial discrimination, European Commission against Racism and Intolerance, Council of Europe, February 2003.

⁶ ECRI General Policy Recommendation N°7, paragraphs 2-3 (and paragraphs 10-11 of the Explanatory Memorandum).

⁷ Article 141 of the Criminal Code provides that whoever, due to differences in respect of nationality, race, skin colour, religion, ethnic origin, gender, language, political or other beliefs, birth status, education, social position or any other circumstances, prevents another person's enjoyment of any human right or freedom recognised by the international community or laid down by the Constitution or the statute, or grants to any person a special privilege or advantage on the basis of such discrimination shall be punished by a fine or sentenced to imprisonment for not more than one year. The same punishment applies to the offence of harassing an individual or organisation promoting equality (paragraph 2). Paragraph 3 contains a qualified

discrimination and Article 300⁸ which prohibits incitement to racial hatred, were not used sufficiently. It therefore recommended that the Slovenian authorities take steps to improve the implementation of these provisions, notably by training those involved in the criminal justice system, raising their awareness of the need to take all manifestations of racism and racial discrimination seriously, and strengthening awareness among potential victims of their rights as well as these persons' willingness to report breaches.

10. It does not appear to ECRI that the situation concerning the implementation of these provisions has changed considerably since ECRI's last report. A slight increase in the number of complaints under Article 141 that have reached the Public Prosecutor has been registered -- for instance 37 such complaints were filed in the period 2004 - 2005. However, these complaints have rarely resulted in charges being pressed and virtually never in convictions. Furthermore, ECRI notes that since more refined data on the application of this provision is not collected, the extent to which these cases reflect cases of discrimination falling within ECRI's mandate is unclear. As concerns Article 300, whose formulation was amended in 2004 in order to bring it into line with the Additional Protocol to the Convention on Cybercrime⁹, the authorities report that in the period 2004 - 2005, the Public Prosecutor dealt with 27 cases, none of which have so far resulted in convictions. ECRI notes however, that charges have been pressed in six cases.
11. The Slovenian authorities have stressed that these figures reflect the very limited number of complaints from individuals in these areas and the fact that, in many cases, proceedings must be discontinued for lack of witnesses or the impossibility to identify the perpetrators. It has been reported to ECRI however, that other factors relating more strictly to the practice of the criminal justice authorities, including for instance as concerns the decision of the prosecuting authorities on whether or not to open proceedings in alleged cases of incitement to racial hatred, also come into play. At the same time ECRI notes that since its second report, positive developments have also taken place in this area, with charges in cases of incitement to racial hatred committed through the Internet having been brought before the courts for the first time.
12. In ECRI's opinion, one of the areas of criminal law where most progress is needed in Slovenia is racially-motivated offences. In its second report, ECRI noted that not enough attention was paid by the various actors of the criminal justice system to the possible racist dimension of offences and that, as a rule, when such offences were committed they were dealt with as ordinary offences. Among other measures, ECRI recommended that the Slovenian authorities introduce a criminal law provision establishing racist motivation as a specific aggravating circumstance in sentencing. ECRI notes that no such provision has been introduced since its last report. The Slovenian authorities have stressed that they do not consider this provision to be necessary, as racist motivation

form of the criminal offence of infringing equality as defined in paragraph 1 and 2 and foresees a greater punishment (imprisonment for up to three years) for public officials abusing their official function.

⁸ Following amendments introduced in 2004 (reproduced *in italics*), Article 300 (*Stirring up Hatred, Strife or Intolerance based on Violation of the Principle of Equality*) punishes with imprisonment of up to two years "whoever provokes or stirs up ethnic, racial or religious hatred, strife or intolerance or disseminates ideas on the superiority of one race over another *or assists racist activities in any manner or denies, diminishes the significance of, approves of or advocates genocide*". A qualified form of this basic criminal offence is defined as including the use of force or ill-treatment, endangering safety, desecration of national ethnic or religious symbols, damaging movable property of another or desecrating monuments, memorial stones or graves. In these cases imprisonment can be imposed for up to five years.

⁹ See above, "International legal instruments".

can already be taken into account under Article 41 of the Criminal Code, which provides in a general way that the courts shall consider the motives of an offence in determining the sentence. However, ECRI considers that the establishment of racist motivation as a specific aggravating circumstance would not only allow for racist offences to be better recognised and punished, but also enable better monitoring of the response of the criminal justice to racially-motivated offences -- ECRI notes that data on whether and to what extent racial motivation is taken into account by courts pursuant to Article 41 is not available at present. In this connection, ECRI has been informed of a very limited number of cases since its last report where the criminal justice system has dealt with racially-motivated offences. ECRI notes that in none of these cases was the offence finally found to have been committed on racist grounds, but the proceedings in at least two cases are still pending before the prosecuting authorities or the court. ECRI notes that these figures appear to be at variance with the situation as described by victims of racially-motivated offences to civil society organisations.

13. ECRI notes that a Protection of Public Order Act, which covers minor offences, entered into effect in Slovenia in July 2006. One provision of the Act stipulates that certain types of conduct (including damaging official symbols, graffiti or indecent behaviour) are punished more severely if committed with the purpose of inciting *inter alia* to national, racial, ethnic or religious intolerance.
14. ECRI notes that since its second report, a number of initiatives have been taken to train the different actors of the criminal justice system on the existing provisions against racism and racial discrimination and racially-motivated offences. In particular, the authorities have reported that 40 out of approximately 220 serving prosecutors have already been trained on these subjects. Training activities have also been carried out for the police and judges, notably by the non-governmental sector. However, ECRI has continued to receive reports according to which instances of racism and racial discrimination or racially-motivated offences are not yet always addressed with the necessary attention or diligence. Measures to reach out to potential victims to raise awareness of their rights and encourage them to come forward with complaints have also been limited.

Recommendations :

15. ECRI recommends that the Slovenian authorities take steps to improve the implementation of the criminal law provisions in force against racism and racial discrimination and, in particular, that they improve the response of the criminal justice system to racially-motivated offences.
16. To this end, ECRI recommends that the Slovenian authorities strengthen their efforts to ensure that all those involved in the criminal justice system, from lawyers to the police, prosecuting authorities and the courts, are equipped with thorough knowledge of the provisions in force against racism and racial discrimination, trained on how to recognise and deal with racist motivation of offences, and made fully aware of the need to actively and thoroughly counter all manifestations of these phenomena.
17. In addition, ECRI recommends that the Slovenian authorities take measures to raise the awareness among potential victims of racism and racial discrimination of their rights and the legislation in force and to encourage them to come forward with complaints.

18. ECRI strongly recommends that the Slovenian authorities introduce a criminal law provision that expressly considers the racist motivation of an offence as a specific aggravating circumstance. More generally, ECRI recommends that the Slovenian authorities keep the criminal law provisions in force against racism and racial discrimination under review and fine-tune them as necessary. To this end, ECRI draws the attention of the Slovenian authorities to its General Policy Recommendation No.7, and particularly to the recommendations concerning the criminalisation of certain forms of racist expression¹⁰.

Civil and administrative law provisions

19. In its second report ECRI noted that apart from employment, where more detailed antidiscrimination provisions had recently been introduced¹¹, there was no comprehensive civil and administrative antidiscrimination legislation in Slovenia which would cover all fields of life, from education to housing, health, goods and services intended for the public and public places, exercise of economic activity and public services. ECRI therefore recommended that such legislation be introduced and that ECRI's General Policy Recommendation No.7 be used as a reference in this process.
20. ECRI is pleased to note that in April 2004, Slovenia adopted the Implementation of the Principle of Equal Treatment Act (hereafter: IPETA). This legislation, which was introduced in order to transpose the two European Council Directives on equal treatment¹², covers discrimination on grounds of *inter alia* national, racial or ethnic origin, language and religious convictions and in a number of fields, including employment, labour relations, participation in trade unions and interest associations, education, social security and access to and supply of goods and services. The IPETA bans direct and indirect discrimination, victimisation and harassment, and provides for the establishment of two bodies: the Government Council for Fulfilling the Principle of Equal Treatment, and the Advocate of the Principle of Equality which is competent to hear and process individual complaints¹³. ECRI welcomes the fact that a number of elements included in its General Policy Recommendation No.7 are reflected in the IPETA. It also notes however, that other aspects of this General Policy Recommendation have not been included, for instance as concerns the fields covered by the antidiscrimination legislation, the need to include nationality (i.e. citizenship) among the prohibited grounds of discrimination, or the need to place public authorities under a statutory duty to promote equality and prevent discrimination in carrying out their functions -- an element which ECRI believes could help to bring about positive changes in public administration in these fields.

¹⁰ ECRI General Policy Recommendation N°7, paragraph 18 a-f (and paragraphs 38-42 of the Explanatory Memorandum).

¹¹ Employment Relationship Act, 24 April 2004, Official Gazette No. 42/2002. Concerning the implementation of this act, see below "Employment".

¹² Directive 2000/43/EC of the Council of the European Union implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Directive 2000/78/EC of the Council of the European Union establishing a general framework for equal treatment in employment and occupation.

¹³ See below, "Specialised bodies and other institutions".

21. As concerns implementation, ECRI notes that from 1 January 2005, when she took up her functions, until the end of that year, the Advocate of the Principle of Equality has received 32 complaints under the IPETA. ECRI notes however, that the vast majority of these complaints did not concern grounds covered by its mandate, but other grounds, especially age. Although the authorities underline that it is too early to draw a reliable picture, ECRI notes that the two main areas addressed by these complaints are employment and education. It has been noted that the very limited number of complaints of racial discrimination reflects, at least in part, the fact that the new legal and institutional framework against racial discrimination is not known well enough to the public, and in particular to potential victims of this phenomenon. In this respect, ECRI notes that the Government's Office for Equal Opportunities has taken a number of initiatives to raise awareness of the new legal and institutional framework in force among the general public, through conferences and the production and dissemination of leaflets and handbooks. The authorities report that they have also targeted awareness raising efforts to strategic partners such as trade unions, the legal community, groups vulnerable to discrimination and students. ECRI notes that the non-governmental sector has also provided training on antidiscrimination legislation to judges and civil society organisations.

Recommendations :

22. ECRI encourages the Slovenian authorities in their efforts to ensure that civil and administrative law provisions provide adequate protection against discrimination. It recommends that they keep the existing provisions against racial discrimination under review. In this respect, ECRI draws the attention of the Slovenian authorities to its General Policy Recommendation No.7, in particular as concerns: the need to protect individuals from discrimination on grounds of nationality (i.e. citizenship); the areas that should be covered by antidiscrimination legislation¹⁴; the need to place public authorities under a duty to promote equality and prevent discrimination in carrying out their functions¹⁵.
23. ECRI recommends that the Slovenian authorities take steps to improve the implementation of the existing civil and administrative law provisions against racial discrimination. It recommends that such steps include strengthened efforts to raise awareness among the general public, groups vulnerable to racial discrimination, the legal community and other strategic partners of the civil and administrative legal framework in force against discrimination.

Specialised bodies and other institutions

- ***The Advocate of the Principle of Equality and the Council of the Government for the Implementation of the Principle of Equal Treatment***

24. In its second report, ECRI recommended that the Slovenian authorities establish an independent specialised body to effectively monitor the situation of racism and racial discrimination and assist with the implementation of

¹⁴ ECRI General Policy Recommendation N°7, paragraph 7 (and paragraphs 17-26 of the Explanatory Memorandum)

¹⁵ ECRI General Policy Recommendation N°7, paragraph 8 (and paragraph 27 of the Explanatory Memorandum).

antidiscrimination legislation. As mentioned above¹⁶, two bodies have been set up by the IPETA since ECRI's second report: the Advocate of the Principle of Equality and the Government Council for Fulfilling the Principle of Equal Treatment.

25. Established within the Government's Office for Equal Opportunities, the Advocate of the Principle of Equality is competent for providing assistance to victims of discrimination, including racial discrimination, carrying out surveys and publishing reports. Victims of discrimination can file a complaint with the Advocate, who examines the case and issues an opinion. The opinion can also contain recommendations on how any irregularities found should be rectified. The Advocate cannot issue sanctions. However, in case its recommendations are not followed or in case of a clear-cut case of discrimination, it can start a procedure before the Inspector, which in turn may result in court proceedings. ECRI notes that in none of the cases of discrimination dealt with by the Advocate in 2005¹⁷ it has been necessary to start proceedings before the Inspectors. ECRI welcomes the establishment of the Advocate of the Principle of Equality as an important step towards providing better protection of persons living in Slovenia against racial discrimination. However, as highlighted in its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level¹⁸, and General Policy Recommendation No. 7, ECRI stresses the need for these specialised bodies to be fully independent in order to guarantee their effectiveness.
26. Also established by the IPETA, the Council of the Government for the Implementation of the Principle of Equal Treatment is composed of representatives of ministries and governmental services, non-governmental organisations and expert institutions in the field of equal treatment. The role of the Council is to: monitor the implementation of the IPETA; assess the position of specific groups within society with respect to the principle of equality; submit recommendations and proposals for measures for the implementation of the principle of equal treatment and for the promotion of education, awareness-raising and research in this field. At the time of writing, the Council is reported to have convened only a few times.

Recommendations :

27. ECRI encourages the Slovenian authorities in their efforts to ensure that the legal framework against racial discrimination is adequately supported by institutional mechanisms which monitor and assist in its implementation and promote research and awareness in the field of non-discrimination and equality.
28. ECRI recommends that the Slovenian authorities keep the status, powers and duties of the Advocate of the Principle of Equality under review, in order to ensure that it provide victims of racial discrimination with the most effective

¹⁶ See above "Civil and administrative law provisions".

¹⁷ See above "Civil and administrative law provisions".

¹⁸ CRI (97) 36: ECRI General Policy Recommendation n° 2: Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, European Commission against Racism and Intolerance, Council of Europe, June 1997.

¹⁹ ECRI General Policy Recommendation N°2, Principle 5.

protection possible. To this end, ECRI draws the attention of the Slovenian authorities to its General Policy Recommendations No. 2 and No. 7, which provide detailed guidelines on the establishment, functions and working methods of these bodies. In particular, ECRI draws the attention of the Slovenian authorities to the need for such a body to be independent and to the guidelines it formulated on how to guarantee such independence¹⁹. ECRI also draws the attention of the Slovenian authorities to the guidelines it has provided on the powers that should be attributed to such a specialised body²⁰.

- ***The Human Rights Ombudsman***

29. In its second report, ECRI welcomed the protection provided by the Human Rights Ombudsman to individuals against violations of their rights by organs of the state, local administration and other public authorities and recommended that awareness about the role of this institution in providing protection in fields covered by ECRI's mandate be raised among the general public. ECRI has been informed by the Human Rights Ombudsman that this institution is rather well known by the general public, including minority groups more vulnerable to discrimination, and that his Office is in regular contact with representatives of these groups. Although members of minority groups do file complaints with the Human Rights Ombudsman these complaints rarely focus on racism or racial discrimination directly, although these phenomena may in some cases play a part.
30. ECRI is pleased to note that the Parliament has agreed to extend the rules of procedure of the Human Rights Ombudsman so as to establish a department dealing especially with discrimination and intolerance. In addition to handling individual complaints, this department will focus on education, research and awareness raising for the promotion of mutual respect and the prevention of discrimination in Slovenian society.
31. While it welcomes the support provided to this initiative, ECRI notes that the recommendations and findings of the Human Rights Ombudsman in areas falling within ECRI's mandate have not always been followed by the State and other public authorities concerned since ECRI's second report.

Recommendations :

32. ECRI recommends that the Slovenian authorities ensure compliance of State and other public administrations with the recommendations and findings of the Ombudsman in all cases.

Education and awareness-raising

33. In its second report, ECRI encouraged the Slovenian authorities to strengthen school education aimed at promoting awareness of human rights and respect of difference. As was the case at the time of ECRI's second report, this type of education is essentially imparted as part of a compulsory course, "Citizenship and Ethics", but also through optional courses and references in other subjects. The Slovenian authorities have reported to ECRI that as part of a review of the school curricula for all subjects which will start in 2006, they intend to strengthen the importance given to human rights and the positive role of diversity across all subjects, and increase opportunities for pupils to learn about

²⁰ ECRI General Policy Recommendation N°7, paragraph 24 (and paragraphs 50-55 of the Explanatory Memorandum) and ECRI General Policy Recommendation N°2, Principle 3.

these issues and absorb these values through extra-curricular activities. In the framework of this review, the Slovenian authorities will also discuss the introduction of a new compulsory subject focusing on human rights in secondary education.

34. More generally, ECRI considers that in spite of some welcome information initiatives highlighted in other parts of this report²¹, there is still limited awareness in Slovenian society of racism and racial discrimination and confidence in the fact that these phenomena can be redressed or punished. ECRI finds that this situation concerns different segments of society (including the authorities, the general public and victims of racism and racial discrimination themselves) and that their combination and mutual influence prevent these phenomena from being tackled effectively in many cases. For instance, the Slovenian authorities have on several occasions highlighted to ECRI that, in spite of steps taken to encourage victims of racism and racial discrimination to come forward, they have received no complaints. On the other hand, ECRI notes that members of minority groups often feel that it is of no use, or even in some cases counterproductive, for them to file a complaint as there is no acceptance or recognition of racial discrimination on the part of the authorities. Another illustration of how lack of awareness of the role of racism and racial discrimination prevents the adoption of effective measures to counter these phenomena concerns the issue of positive measures aimed at improving the situation of certain disadvantaged groups. ECRI notes that positive measures, for instance for the Roma population, are already being taken in certain areas. However, the Slovenian authorities have highlighted that they often have to keep a low profile concerning these measures as segments of the Slovenian population are unconvinced about the need for such measures or, in some cases, hostile to them. However, ECRI considers that on the contrary, civil society support for such measures is primordial and that such support can only be gained by raising awareness of the role played by racism and racial discrimination in effectively preventing certain minority groups from enjoying genuinely equal opportunities with the rest of the Slovenian population.

Recommendations :

35. ECRI encourages the Slovenian authorities to strengthen their efforts to provide human rights education in schools with special emphasis on equality and respect for difference. This should be reflected in education imparted within "Citizenship and ethics", in the curricula for other subjects and in extra-curricular activities. In the long term however, ECRI considers that the Slovenian authorities should consider making human rights a compulsory subject at both primary and secondary level.
36. ECRI strongly recommends that the Slovenian authorities take steps to raise the awareness of racism and racial discrimination and confidence in the fact that these phenomena can be redressed or punished, among public institutions, the general public and victims of racism and racial discrimination. ECRI recommends that the Slovenian authorities take steps to raise awareness within society of the need for any genuine equal opportunities policy to include positive measures aimed at improving the situation of certain disadvantaged groups.

²¹ See above "Criminal law provisions" and "Civil and administrative law provisions".

Reception and status of non-citizens

- **Asylum seekers**

37. As mentioned in ECRI's second report, the number of asylum applications in Slovenia had been growing sharply until 2000, when 9 244 applications were filed, then fell considerably in 2001 (1511 applications) and 2002 (640 applications). Since then, Slovenia received 1201 applications in 2003, 1208 in 2004, 1674 in 2005 and 260 in the first six months of 2006. The Slovenian authorities report that, as was the case at the time of the second report, a large majority of cases are discontinued because applicants have given up the procedure and possibly moved to another country. In the cases that were not discontinued, the Slovenian authorities have issued 37 positive decisions (i.e. refugee status or humanitarian protection) in 2003, 39 in 2004, 26 in 2005 and 5 in the first six months of 2006.
38. ECRI notes with concern that there have been significant changes in the legal framework regulating asylum since its last report, notably through the adoption of amendments to the Law on Asylum in March 2006²². The Slovenian authorities have stated that they have reformed the asylum system to comply with demands from the European Union for stricter border control and that they consider these amendments to be in line with existing international standards and notably with the Directives of the European Union on asylum issues. However, ECRI notes that in the opinion of the United Nations High Commissioner for Refugees (UNHCR), these amendments lowered previous protection standards, which in some respects were higher than average, to even below the requirements of international standards. ECRI highlights below some areas that are a cause for concern and need to be closely monitored.
39. The March 2006 amendments have modified Article 26 of the Law on Asylum to introduce what is often referred to as police pre-procedure. Essentially, this article leaves it to the border police to decide whether a person who has crossed the border may apply for asylum or not. ECRI is deeply concerned that the police pre-procedure will result in an increased likelihood of individuals being returned to countries where they are at risk of serious human rights violations, contravening well established human rights standards. It notes that the Constitutional Court is currently examining the conformity of Article 26 of the Law on Asylum with the Constitution and that the implementation of the relevant provisions of Article 26 has been suspended pending this examination. ECRI notes that the Slovenian authorities have indicated that the Ministry of Interior will follow the decision of the Constitutional Court. In its second report, ECRI expressed deep concern at reports according to which non-citizens arriving at the Slovenian border who would like to apply for asylum were not always able to do so. ECRI regrets that the Slovenian authorities have chosen to introduce the police pre-procedure in spite of this important recommendation.
40. The amendments to the Law on Asylum also remove free legal aid from asylum seekers in first instance asylum proceedings. Free legal aid is only available in the appeals phase, which is however limited in practice to judicial review only. The Slovenian authorities have reported to ECRI that alternative ways of providing free legal assistance in first instance asylum cases are available, notably through the European Refugee Fund.

²² Law on Changes and Amendments to the Law on Asylum, March 2006

41. ECRI notes that following the adoption of the amendments, asylum seekers, who were previously allowed to work, are entitled to do so only one year after lodging their application and if it is considered that they are not responsible for the long duration of the procedure. ECRI furthermore notes that the amendments to the Law on Asylum remove the financial allowance to which asylum seekers were previously entitled. The Slovenian authorities have stressed that the allowance is not necessary since asylum seekers' basic needs are fully met at the centres where they are accommodated²³. It has been reported to ECRI, however, that some necessary items are not always available at these centres.
42. In its second report, ECRI also made recommendations to the Slovenian authorities in the field of reception of asylum seekers. Noting the sometimes harsh living conditions in facilities where asylum seekers were accommodated, ECRI recommended that the Slovenian authorities improve the accommodation arrangements for asylum seekers. ECRI is pleased to note that since then, a reception facility was opened in Ljubljana in September 2004, which provides improved living conditions, including separate areas for particularly vulnerable groups of asylum seekers. It has been reported to ECRI however, that the reception capacity of the new facility (around 200 persons) is not sufficient to meet the reception needs, with consequent recurrent situations of overcrowding. As concerns health care and education, ECRI notes that asylum seekers' access to these services is limited to emergency health care and primary education. The Slovenian authorities have underlined however, that in practice, most health treatments are covered and that when asylum seekers express a wish to follow secondary education, practical arrangements are made to enable them to do so.
43. More generally, ECRI has registered a deterioration in the co-operation established by the Slovenian authorities with organisations active in the field of promoting the rights of asylum seekers in 2004 and 2005, although it notes that more recently the situation in this respect has somewhat improved.

Recommendations :

44. ECRI urges the Slovenian authorities to ensure full compliance with the prohibition to return individuals to countries where they are at risk of serious human rights violations. To this end it recommends that they review their decision to introduce the police pre-procedure.
45. ECRI recommends that the Slovenian authorities continue to ensure that free legal aid is available to asylum seekers from the outset of the asylum proceedings.
46. ECRI recommends that the Slovenian authorities ensure that asylum seekers have the necessary means available to cater for their basic needs, including by providing them with adequate opportunities to work.
47. ECRI encourages the Slovenian authorities in their efforts to ensure that adequate reception facilities are available to asylum seekers. It recommends that they ensure that these facilities are capable of meeting reception needs at all times. ECRI furthermore recommends that asylum seekers be provided by law with adequate access to healthcare services and secondary education.

²³ See below.

48. ECRI recommends that the Slovenian authorities strengthen co-operation with organisations active in the field of promoting the rights of asylum seekers and use their knowledge and experience to shape policy concerning asylum seekers.

- **Refugees**

49. Since ECRI's last report, developments have taken place in the field of favouring the integration of recognised refugees. In particular, ECRI notes that a Decree on the Rights and Duties of Refugees was adopted in spring 2004. In accordance with the Decree, an individual integration agreement is concluded between the refugee and the Ministry of the Interior, covering areas such as attendance of classes in the Slovenian language and society, involvement in further education, assistance in finding accommodation and employment, etc. ECRI welcomes the efforts of the Slovenian authorities to favour the integration of refugees in society, although it notes reports according to which lack of adequate resources and co-ordination between the various Ministries, implementing agencies and local authorities have so far limited the effectiveness of these measures.

Recommendations :

50. ECRI encourages the Slovenian authorities to strengthen their efforts to promote the integration of refugees in society, including by securing adequate resources and co-ordination among the different actors involved.

Access to public services

- **Access to education²⁴**

51. ECRI notes that since its second report, the issue of the disproportionate representation of members of ex-Yugoslav minority groups in certain schools has come to the public attention. In particular, ECRI notes the case of one primary school in Ljubljana (Livada) where as many as 97% of the pupils were children from families from other ex-Yugoslav countries, whereas their proportion according to the ethnic composition of the school district should have been around 50%. This situation appears to be the result of the decision of the parents of ethnic Slovenian children to enrol their children in other schools. The Human Rights Ombudsman, who investigated this situation in 2004, found that the procedure for allowing parents residing in the school district to send their children to other schools had not been followed. However, and in spite of efforts by the school to promote itself publicly and in the school district, ECRI understands that virtually all children enrolled in Livada primary school continue to come from non-ethnic Slovenian families.

52. ECRI notes that specialised teaching of Slovenian as a second language has been introduced since ECRI's second report – a programme targeted essentially at Roma children was launched in 2005. The Slovenian authorities have reported to ECRI that they are aware of the need to make further progress in this area and that they are working to improve provision of this subject.

²⁴ For issues related to access to education of Roma children, see below "The situation of the Roma communities". For issues related to access to minority language education for members of ex-Yugoslav minority groups, see below "Vulnerable groups – Ex-Yugoslav minority groups".

Recommendations :

53. ECRI strongly recommends that the Slovenian authorities monitor the situation as concerns the disproportionate representation of pupils from ethnic minority groups, including ex-Yugoslav minority groups, in schools. It recommends that the authorities take, as necessary, swift measures to avoid *de facto* segregation in schools, by acting in close consultation with the school communities.
54. ECRI encourages the Slovenian authorities to continue and further improve provision of specialised teaching of Slovenian as a second language in schools.

- Access to housing

55. There is no data available on the role played by racial discrimination in housing in Slovenia and ECRI has no knowledge of any individual cases of racial discrimination in housing having been dealt with by the competent bodies since its last report. However, ECRI notes that research seems to point at imbalances between the housing situation of certain minority groups, for instance members of ex-Yugoslav minority groups, and that of the majority population. Although it has been pointed out that the role played by racial discrimination in this situation is difficult to assess, it has also been stressed that imbalances for certain groups are such that further research, and generally more attention paid to these questions on the part of the authorities, would be necessary.

- Access to other services

56. In its second report, ECRI noted reported instances of discrimination of members of certain minority groups, including Roma and ex-Yugoslav groups, in access to public services. The Slovenian authorities report that since ECRI's last report, compulsory human rights training has been introduced for all civil servants and that administration officials serving in areas with a high concentration of minority groups receive special diversity training. ECRI also notes that the non-governmental sector has been active in providing training in this area.
57. ECRI notes reports according to which in some instances persons of immigrant background have been refused entry to public places such as bars and night clubs for no apparent reason other than their ethnic origin, although it understands that no complaints have been filed with the competent authorities.

Recommendations :

58. ECRI recommends that the Slovenian authorities take steps to investigate possible patterns of racial discrimination in housing and devote more attention to this issue in policy making and in the implementation of the legal provisions in force.
59. ECRI encourages the Slovenian authorities in their efforts to provide civil servants with training in human rights. It recommends that efforts be continued and strengthened to provide public officials, and especially those who are most often in contact with persons from minority groups, with the necessary skills to operate professionally in a multicultural society.
60. ECRI recommends that the Slovenian authorities take steps to investigate any practices in use in the entertainment industry of refusing entry to persons of immigrant background to certain establishments and take the necessary

corrective action.

Employment

61. In its second report, ECRI welcomed the antidiscrimination provisions contained in the Employment Relationship Act of April 2002 and recommended that the Slovenian authorities ensure effective implementation of these provisions. The Slovenian authorities have reported that since then, 13 violations of the prohibition of discrimination have been ascertained by the Labour Inspection, but never on grounds covered by ECRI's mandate. To ECRI's knowledge, the only two individual cases of racial discrimination to have been put before public institutions since ECRI's second report date back to 2003 and have been filed with the Ombudsman in one case, and the Labour Court of Maribor in the other. The Slovenian authorities have reported to ECRI that they have taken measures to inform members of minority groups vulnerable to racial discrimination of the possibility to file complaints, but that no complaints have followed.
62. In spite of the apparent lack of individual cases of racial discrimination in employment, data on the employment situation of the population of Slovenia appears to point to imbalances between people of different ethnic origin that would require further investigation. For instance, it has been reported to ECRI that unemployment and unskilled work affect members of certain minority groups, including ex-Yugoslav minority groups, in a disproportionate manner even when possible lower levels of educational attainment are taken into account. It has also been observed that only rarely do members of ethnic minority groups reach leading positions in the civil service or certain branches of the private sector.
63. ECRI notes that initiatives aimed at improving the position of ethnic minority groups in the labour market have been taken in some cases. The Slovenian authorities report that the Ministry of Labour, Family and Social Affairs has started to develop measures aimed at strengthening the integration of members of these groups into the labour market. More recently, initiatives in this area funded through the EQUAL project of the European Union have been launched, although it is too early to assess their effectiveness.

Recommendations :

64. ECRI recommends that the Slovenian authorities strengthen their efforts to improve implementation of the legal provisions in force against racial discrimination in employment. To this end, it recommends in particular that they strengthen their efforts to reach out to members of minority groups to inform them of the possibility of filing complaints and boost their confidence in the utility of doing so.
65. ECRI recommends that the Slovenian authorities take steps to investigate possible patterns of racial discrimination in employment.
66. ECRI recommends that the Slovenian authorities step up their efforts to improve the position of ethnic minority groups in the labour market.

Vulnerable groups

- **Roma communities**

67. See Section II below

- **Ex-Yugoslav minority groups**

68. As already noted in ECRI's second report, members of minority groups from other territories of the Former Socialist Federal Republic of Yugoslavia (hereafter: ex-Yugoslav minority groups) account for a part of the population of Slovenia generally estimated at around 10%²⁵. In its second report, ECRI noted that members of these groups experienced discrimination in some areas, both in the private and in the public sector. ECRI addresses these aspects in other parts²⁶ of this report. As concerns the situation of persons erased from the register of permanent residents in 1992, virtually all of whom are members of ex-Yugoslav minority groups, this aspect is also dealt with in another section of the report²⁷. In this section, ECRI addresses the situation of the members of ex-Yugoslav minority groups as concerns preservation and promotion of identity through culture, education and media. In its second report, ECRI recommended that the Slovenian authorities improve opportunities available to members of ex-Yugoslav minority groups in this area.

69. As already noted in ECRI's second report, unlike the Hungarian, Italian and Roma minority groups, ex-Yugoslav minority groups are not granted specific rights by the Slovenian legal system. However, the Slovenian authorities have stressed that in terms of preservation and promotion of identity, members of ex-Yugoslav minority groups enjoy the rights that the Constitution recognises in this area to all persons²⁸. ECRI has registered deep dissatisfaction among members of ex-Yugoslav minority groups at this situation, which in their view, in addition to not reflecting their important contribution to Slovenian society, results in largely inadequate opportunities for them to express, preserve and promote identity. ECRI is concerned at this situation. It is particularly concerned to learn that, although representatives of these groups were received by the Ministry of Culture in June 2005, attempts to establish an ongoing dialogue with the Slovenian authorities on how to improve rights and opportunities available to them in these areas have for the moment been unsuccessful.

70. As regards funding for cultural projects, ECRI notes that members of ex-Yugoslav minority groups still have access to funding on a project basis, and not on the basis of specifically earmarked budgetary appropriations. The

²⁵ Official data updated to 31 December 2004, indicates that 9.2% of the population of Slovenia was born in one of the other territories of the Former Socialist Federal Republic of Yugoslavia. According to the last census, carried out in 2002, where respondents were free to declare their national/ethnic affiliation, the population of Slovenia is composed by Slovenes (83.06%), Serbs (1.98%), Croats (1.81%), Bosniacs (1.10%), Muslims (0.53%) Albanians (0.31%), Macedonians (0.20%) Roma (0.17%), Montenegrins (0.14%) and other groups.

²⁶ See "Access to public services – Access to education", "Access to public services – Access to housing" and "Employment".

²⁷ See "The situation of the "erased"".

²⁸ Article 61 of the Constitution (Expression of national affiliation) stipulates that "Everyone has the right to freely express affiliation with his nation or national community, to foster and give expression to his culture and to use his language or script". Article 62 of the Constitution (Right to use one's language and script) stipulates that "Everyone has the right to use his language and script in a manner provided by law in the exercise of his rights and duties and in procedures before the State and other bodies performing a public function".

Slovenian authorities have stressed that funding for cultural projects has been considerably increased since ECRI's last report. However, ECRI notes consistent reports according to which these funds remain largely insufficient. It has also been pointed out that there is no financial provision for creating infrastructures, which is in many cases a precondition for successfully carrying out cultural activities.

71. As for mother tongue education, ECRI notes that there has been very little progress since ECRI's second report. Optional classes in certain languages of ex-Yugoslav countries have in some cases been introduced. However, ECRI understands that these courses are fully extra-curricular (i.e. not graded) and that adequate teaching material is not yet available. ECRI notes that in a few cases, schools have introduced instruction in minority languages for specific subjects. However, by and large, ECRI notes that the number of children who attend these classes is very low.
72. In its second report, ECRI encouraged the Slovenian authorities to improve the presence of ex-Yugoslav minority groups in the media. Although publications in the languages of ex-Yugoslav minority groups exist, ECRI notes that the presence of such groups on public radio and television is particularly limited. It has been reported to ECRI that only between 1 and 2% percent of all public funds earmarked for minority media and information activities are currently given to ex-Yugoslav minority groups. Furthermore, while it welcomes the fact that the new Public Broadcasting Law makes provision for programmes for Roma, ECRI notes that no such provision is made for ex-Yugoslav minority groups.

Recommendations :

73. ECRI urges the Slovenian authorities to initiate and maintain a meaningful dialogue with the representatives of ex-Yugoslav minority groups on how best to ensure that their needs in the field of promoting identity are met.
74. ECRI strongly recommends that the Slovenian authorities make progress in the field of providing members of ex-Yugoslav minority groups with opportunities to promote their identity, notably through culture, education and media. It recommends that in addressing the rights and opportunities of minority groups in these fields, the Slovenian authorities take a more inclusive approach reflecting the contribution of ex-Yugoslav minority groups to Slovenian society.

- Muslim communities

75. As already noted in ECRI's second report, Muslims in Slovenia comprise different communities, including ex-Yugoslav minority groups, essentially Bosniacs and ethnic Albanians, and a small group of persons from countries outside Europe.
76. As mentioned in other parts of this report²⁹, Muslims in Slovenia have been the target of hate speech in politics and sometimes the subject of generalisations or negative portrayal in the media. In this section however, ECRI deals with an issue of particular concern to the Muslim communities of Slovenia, which ECRI already addressed in its second report: the building of a Mosque in Ljubljana. In its second report, ECRI noted that the practicing Muslim communities did not

²⁹ See below "Media" and "Use of racist and xenophobic discourse in politics".

always have appropriate premises for religious events and activities and that the request, made many decades ago, for a Mosque to be built in Ljubljana had not yet been successful. ECRI urged the Slovenian authorities to remedy this situation. At the time of writing, however, the Mosque has not yet been built. ECRI understands that the land has been identified and that the Islamic Community of Slovenia expects to purchase it in 2006. However, ECRI understands that segments of the local communities have continued to express resistance and that legal suits have been filed concerning environmental dangers that the building of the Mosque would supposedly entail. ECRI regrets that the practicing Muslim communities of Slovenia are still deprived of adequate religious premises. It is furthermore concerned that the issue of the building of the Mosque has largely served as an occasion for the expression of Islamophobic attitudes in political and public debate.

Recommendations :

77. ECRI reiterates its recommendation that the Slovenian authorities ensure without further delay that the Muslim communities enjoy the use of a proper Mosque to practice their religion.

- Other groups

78. In its second report, ECRI noted that the German-speaking minority groups were still faced with some prejudice and stereotyping, notably linked to the events of the Second World War and encouraged the authorities to pay attention to this problem. ECRI is not aware of any specific initiatives having been taken in this field and notes that some manifestations of intolerance towards the members of these groups, including in the form of insulting graffiti sprayed on the premises of their cultural associations, have continued to occur.
79. In the field of promoting identity and culture, the Slovenian authorities report that an extensive analysis of existing measures for the protection of the German-speaking population's cultural heritage and activities was carried out in 2006. However, ECRI notes that funding for initiatives in these areas does not cover the needs of the members of these communities. Once again, ECRI notes that attempts from members of these communities to establish a dialogue with the authorities on how to improve the situation in this field have not been successful.
80. ECRI notes that, since its last report, Sinti groups have also approached the Slovenian authorities with requests for their identity and culture to be promoted and supported.

Recommendations :

81. ECRI reiterates its recommendation that the Slovenian authorities continue and strengthen their efforts to specifically address prejudice and stereotyping still facing the German-speaking communities.
82. ECRI recalls its recommendation formulated above concerning the need for dialogue to be opened and maintained with minority groups on the issue of opportunities available to promote identity. It recommends that the Slovenian authorities ensure that the German-speaking and Sinti groups are included in such dialogue.

Antisemitism

83. As mentioned in ECRI's second report, there is a Jewish community of a few hundred persons in Slovenia. ECRI notes that there are initiatives in place to promote knowledge of Jewish culture and history and counter antisemitism. These include compulsory school education on the Holocaust, the establishment of a Holocaust Memorial Day around which commemoration and other activities are organised, as well as the publication of a bulletin by the Jewish community. ECRI understands that religious life of the Jewish community has been revived, for instance through links established with the Jewish communities of Trieste, Italy, and the organisation of a campaign for the purchase of a Sefer Torah. ECRI also understands that, since its last report, there have been cases of restitution of expropriated Jewish property.
84. Manifestations of antisemitism since ECRI's second report have however been reported, including graffiti, abusive and threatening letters sent to members of this community, but also desecration of graves at the main cemetery of Ljubljana. It is also reported that antisemitic prejudice and stereotypes are still relatively common in Slovenian society.

Recommendations :

85. ECRI recommends that the Slovenian authorities monitor the situation as concerns manifestations of antisemitism and react to any manifestations that may occur. It draws the attention of the Slovenian authorities to its General Policy Recommendation No. 9 on the fight against antisemitism³⁰, which contains practical guidance on measures governments can take to this end.

Media

86. In its second report, ECRI considered that media professionals should be aware of the danger of negative reporting on minority groups and supported the implementation by media professionals of codes of conduct which favour a more responsible type of reporting. Since then, ECRI has received reports according to which negative stereotyping of minority groups has not decreased in the media. The groups who have reportedly been most affected by this type of reporting are Muslims -- especially due to generalisations or associations between Muslims and terrorism or fundamentalism or in connection with the building of the Mosque -- and the "erased". However, there are reports indicating that positive coverage of these and other minority groups vulnerable to racism have also appeared, notably in the press. Although codes of self-regulation are in place and being used, ECRI is not aware of cases where they have been applied in areas covered by its mandate.

Recommendations :

87. ECRI encourages the Slovenian authorities to impress on the media, without encroaching on their editorial independence, the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards members of any minority groups vulnerable to racism, including Muslims or the "erased". ECRI recommends that the Slovenian authorities engage in a debate with the media and members of other relevant civil society groups on how this

³⁰ CRI (2004) 37: ECRI General Policy Recommendation N°9 on the fight against antisemitism, European Commission against Racism and Intolerance, Council of Europe, June 2004

could best be achieved.

Climate of opinion

88. In its second report, ECRI expressed concern at reports according to which it was not infrequent for racist expressions to be heard in the streets or to appear in the press. Since then, ECRI has continued to receive reports according to which these occurrences have not decreased. In fact, ECRI is concerned that the increase in racist, xenophobic and otherwise intolerant speech it has registered in Slovenian politics since its last report³¹, is bound to result in the banalisation of racist, xenophobic and otherwise intolerant attitudes in the general public.
89. It has been reported to ECRI that since its last report, extremist Neo-Nazi and skinhead groups have gained visibility in Slovenia. Although the size of and support for these groups is reported to be still rather small-scale, ECRI's attention has been drawn to the fact that since its last report, their members have been increasingly present at public events, such as for instance demonstrations or activities to rally support for referendums, and active in the organisation of music concerts at which, *inter alia*, hate music is played. It has also been reported to ECRI that these groups have been increasingly visible and active on the Internet, notably through the establishment of websites and participation in discussion forums. ECRI is pleased to note that some action has been taken in these areas. For instance, one such website was deprived of access to Slovenian-based Internet service provision – this site is however now operating through an Internet service provider abroad. ECRI considers, however, that the situation calls for increased attention on the part of the Slovenian authorities.

Recommendations :

90. ECRI recommends that the Slovenian authorities monitor the situation as concerns the presence and activities of Neo-Nazi and skinhead groups in Slovenia and take all necessary measures to counter them.

Use of racist and xenophobic discourse in politics

91. ECRI expresses serious concern at the use of racist, xenophobic and otherwise intolerant political discourse in Slovenia. Regrettably, this is one of the areas where the situation, already not ideal at the time of ECRI's second report, has deteriorated. Although exponents of some political parties have been particularly active in resorting to this type of propaganda, racist and xenophobic political speech is reported to have become more generalised and to have been used also by politicians exercising important functions at national level. The main targets of racist and xenophobic political discourse -- a reflection of a more general trend in the use of hate speech and intolerant attitudes in the public arena -- have been the "erased", Roma, Muslims, ex-Yugoslav minority groups, but also asylum seekers and, in some cases, visible minorities. Manifestations of racist and xenophobic political discourse have taken different forms and varied in intensity in connection with specific events. For instance, it is reported that such manifestations have been particularly frequent and disturbing during the campaign for the general elections of October 2004 or on the occasion of the organisation of referendums on the building of the Mosque or legislation concerning the "erased". In most cases racist and xenophobic

³¹ See below, "Use of racist and xenophobic discourse in politics".

political discourse has taken the form of derogatory remarks or generalisations concerning the minority groups mentioned above, in some cases it has also taken the form of statements or propaganda, whose conformity with the legislation in force against incitement to hatred may be questioned.

Recommendations :

92. ECRI strongly recommends that the Slovenian authorities take steps to counter the use of racist, xenophobic and otherwise intolerant discourse in politics. It stresses that political parties should take a firm public stand against any forms of racism, discrimination and xenophobia. ECRI recommends that an annual debate be instigated in Parliament on the subject of racism and intolerance faced by members of minority groups, including the “erased”, Roma, Muslims, ex-Yugoslav minority groups, asylum seekers and visible minorities.
93. ECRI recalls, in this particular context, its recommendations formulated above concerning the need to improve the implementation of the existing legislation against incitement to racial hatred³². In addition, ECRI calls on the Slovenian authorities to adopt *ad hoc* legal provisions targeting specifically the use of racist and xenophobic discourse by exponents of political parties, including, for instance, legal provisions allowing for the suppression of public financing for those political parties whose members are responsible for racist or discriminatory acts. In this respect, ECRI draws the attention of the Slovenian authorities to the relevant provisions contained in its General Policy Recommendation N°7³³.

Conduct of law enforcement officials

94. In its second report, ECRI noted cases of excessive use of force on the part of the police against members of minority groups, including Roma and non-citizens. Although it has continued to receive reports according to which certain minority groups, and notably Roma, are particularly exposed to police misconduct, including in some cases ill-treatment, ECRI notes that there have been no formal complaints of racism or racial discrimination filed with the police or the Public Prosecutor since its last report. Although no systematic monitoring is carried out of possible racist or racially discriminatory police behaviour, the Slovenian authorities have researched the complaints filed with the police and found that in the very few cases where racism or racial discrimination might be thought to have played a part, the allegations were found to be unsubstantiated.
95. In its second report, ECRI recommended that the Slovenian authorities establish a body independent of the police authorities to investigate police misconduct, including racist or racially discriminatory behaviour. Although no such body has been established, ECRI notes with interest that the procedure for dealing with complaints filed against the police has been improved and made more transparent since ECRI’s last report³⁴. The Police Act has been amended and new regulations on the resolution of complaints have been adopted. Thus, in cases where a criminal offence is alleged and in all cases

³² See above, “Criminal law provisions”.

³³ ECRI General Policy Recommendation N°7, paragraph 16 (and paragraph 36 of the Explanatory Memorandum).

³⁴ See the Regulation on the Resolution of Complaints, adopted pursuant to Article 28 of the amended Police Act.

where the complainant is not satisfied with the results of a preliminary conciliatory procedure conducted within the police, the new regulations provide for a specific procedure, which starts at the Ministry of Interior. In this procedure, the results of the investigations, which are carried out by a police officer or Ministry of Interior official, are presented to a three-member panel (comprising two civil society representatives), which decides whether the complaint is founded.

96. ECRI has received reports according to which racial profiling is not uncommon within the Slovenian police. It notes that the Human Rights Ombudsman has received some complaints in this area. Following these complaints the Ombudsman applied to the Constitutional Court for a review of the constitutionality of Article 35 of the Police Act, which enables the police to exercise their powers to establish identity on the basis of the “appearance” of a person. ECRI notes that in March 2006, the Constitutional Court found this provision to be unconstitutional³⁵. The Slovenian authorities have indicated that the Police Act has been amended in order to comply with the decision of the Constitutional Court.
97. In its second report, ECRI recommended that the Slovenian authorities strengthen their efforts to improve relations between the police and members of minority groups. The Slovenian authorities have reported that since then, the police training institutions (Police Officers School, Police College and Training Centre) have continued to provide officers with training in human rights, including non-discrimination, and in policing a multicultural society. ECRI also notes that the non-governmental sector has been active in providing training to the police on these issues. ECRI welcomes these efforts. It also notes however that in order to cover the needs for law enforcement personnel along Slovenia’s borders with non-Schengen countries, the Slovenian authorities plan to recruit 500 police officers, who will receive intensive training for 6 months only, instead of the usual 18 months. The authorities have ensured ECRI that these police officers will not be involved in the border police pre-procedure described above³⁶.
98. The Slovenian authorities have reported that no special initiatives are in place in order to encourage better representation of ethnic minority groups in the police.

Recommendations :

99. ECRI recommends that the Slovenian authorities monitor manifestations of racism and racial discrimination on the part of police officers.
100. ECRI encourages the Slovenian authorities in their efforts to increase efficiency and transparency of the mechanisms to deal with complaints of police misconduct. To this end, it invites the Slovenian authorities to consider the establishment of an entirely independent mechanism, separate from police structures, for investigating allegations of police misconduct, including racist or racially discriminatory behaviour.
101. ECRI encourages the Slovenian authorities to strengthen their efforts to provide law enforcement officials with good quality training in human rights and non-discrimination. It recommends in particular that they strengthen provision of specific training to raise police officers’ sensitivity to cultural diversity in dealing

³⁵ Constitutional Court of Slovenia, U-I152/03-13.

³⁶ “Reception and status of non-citizens – Asylum seekers”.

with people of different backgrounds.

102. ECRI recommends that the Slovenian authorities take action to address practices of racial profiling notably in the exercise of police powers to establish identity.
103. ECRI recommends that the Slovenian authorities start considering steps to promote better representation of persons of immigrant background within the police ranks.

Monitoring the situation

104. In its second report, ECRI recommended that the Slovenian authorities develop systems of data collection which would enable them to monitor the position of minority groups in areas such as employment, housing and education. The Slovenian authorities report that data on language (mother tongue and languages spoken) ethnic origin and religion have been collected in the past through censuses, the last of which was carried out in 2002. They also report that, starting from the next census, which will take place in 2011, data will be obtained only from already existing and available registers and administrative sources. It does not appear to ECRI that this information is used at present to monitor the position of minority groups and identify possible patterns of discrimination or disadvantage in certain areas, although ECRI notes that some limited scope analyses are carried out by research institutes³⁷. More generally, ECRI notes that the issue of collecting data broken down by religion, language, nationality and national or ethnic origin in order to monitor discrimination and disadvantage has not yet generated a debate in Slovenia involving all the relevant actors (including the Office for Statistics, the data protection agencies, research institutes and minority groups) on the needs to be met and the modalities of such a process.
105. In its second report, ECRI recommended that the Slovenian authorities develop a system for monitoring the incidence of acts of racism and racial discrimination and the response of the justice system to any such acts. There have been no significant developments in this area since ECRI's second report. In particular, there is still no systematic monitoring of racially-motivated offences or racist incidents, neither at the level of the police, nor, as mentioned above³⁸, at further levels of the criminal justice system.

Recommendations :

106. ECRI recommends that the Slovenian authorities improve their systems for monitoring the situation of minority groups in different areas of life by collecting relevant information broken down according to categories such as religion, language, nationality and national or ethnic origin. It recommends that they ensure that this be done in all cases with due respect to the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group. These systems should be elaborated in close co-operation with all the relevant actors, including civil society organisations and take into consideration the gender dimension, particularly from the point of view of possible double or multiple discrimination.

³⁷ See above "Access to public services – Access to housing" and "Employment".

³⁸ "Criminal law provisions".

107. ECRI encourages the Slovenian authorities to collect readily available and accurate data on the implementation of the criminal, civil and administrative law provisions in force against racism and racial discrimination. This data should cover the number and nature of the complaints filed, the investigations carried out and their results, charges brought, as well as decisions rendered and/or redress or compensation awarded.
108. In particular, ECRI recommends that the Slovenian authorities take steps to monitor the incidence of racially-motivated offences and racist incidents in Slovenia and the response of the criminal justice system (the police, the prosecuting authorities and the courts) to any such acts.

II. SPECIFIC ISSUES

The situation of the “erased”

109. In its second report, ECRI dealt at length with the situation of those citizens of other ex-Yugoslav countries who were removed *ex officio* from the register of permanent residents of Slovenia in 1992 and who since then, are often referred to as the “erased”. As explained in that report, following the armed conflict in Slovenia in 1991 and the ensuing independence of the country, over 170 000 of the approximately 200 000 permanent residents of Slovenia from other ex-Yugoslav countries obtained Slovenian citizenship on the basis of the 1991 citizenship law. This law allowed for a six-month window to apply for citizenship. Of the remaining 30 000 persons, approximately 11 000 left Slovenia around that time. However, for a number of reasons, including the war between other successor States of the former Yugoslavia, the uncertain situation prevailing in other such States, and the destruction, loss or inaccessibility of personal documents, 18 305 permanent residents did not or could not apply for Slovenian citizenship or applied and were rejected. As mentioned, these persons were struck off the register of permanent residents on 26 February 1992. Many of these persons – for the most part reportedly persons without good levels of education -- had been living in Slovenia for a long time and some of them were even born in the country. However, as a result of the erasure from the registers, they became foreigners without legal status in Slovenia from one day to the next, in many cases without being aware of it. Loss of legal status meant for them loss of access to fundamental rights attached to residence, including the right to work and access to healthcare and other social rights, along with the annulment of personal documents and exposure to a risk of deportation.
110. In its second report, ECRI noted that a law had been passed in 1999 to open the possibility for the “erased” to apply for permanent residence³⁹. It also noted however, that the time-limit of three months to do so and the requirement that applicants prove that they had lived in Slovenia since 1991 without interruptions of longer than three months seriously limited the effectiveness of this law. ECRI notes that approximately 12 000 people have obtained permanent residence permits on the basis of that law. However, such residence permits were not granted with effect from the date of erasure (26 February 1992), but from the date of formal acquisition of these permits, i.e. in a majority of cases, 1999.

³⁹ Law Regulating the Status of Citizens of Other Successor States to the Former Socialist Federal Republic of Yugoslavia.

111. ECRI notes that in April 2003, the Constitutional Court declared the 1999 law unconstitutional, *inter alia* because: it did not give retroactive effect to residence permits; it did not regulate the obtaining of residence permits for those “erased” who had been forcibly deported from Slovenia; it did not prescribe criteria for the fulfilment of the requirement of continuous residence in Slovenia. The Constitutional Court therefore established that the Ministry of Interior must issue supplementary administrative decisions whereby residence permits already granted were given retroactive effect from 26 February 1992 to the date of formal acquisition. It also established that the 1999 law must be amended within six months to determine a new time limit for possible new applications.
112. Concerning the first point, ECRI notes that following initial delays, the Ministry of Interior under the former Government started to issue supplementary administrative decisions giving residence permits retroactive effect at the end of 2004. ECRI notes however, that only approximately 4 100 such decisions have been issued. The representatives of the Ministry of Interior under the current Government have stated that they consider that these supplementary decisions do not rest on a sufficiently strong legal basis, and that a general law establishing conditions and criteria for issuing of residence permits should be passed first. ECRI notes however, that in December 2003 the Constitutional Court made it clear that its decision of April 2003 constituted a sufficient legal basis for issuing such decisions and that, in fact, the 4 100 administrative decisions already issued were issued on such a basis. ECRI expresses serious concern at the fact that approximately two-thirds of the “erased” who, since 26 February 1992, have secured citizenship or permanent residence of Slovenia are still not in a position to see their rights linked to permanent residence restored with effect from the date of erasure.
113. The situation as concerns the implementation of the other parts of the decision of the Constitutional Court appears very unclear and uncertain at the time of writing and is a cause for serious concern to ECRI. The issue essentially relates to the enactment of a law to regulate the status of approximately 6 000 “erased” who have not yet secured Slovenian citizenship or permanent residence permits and whose current position varies from holders of temporary permits (an estimated 2 500 persons) and persons still living in Slovenia without legal status to persons who have left Slovenia or have been deported. The Slovenian authorities have reported to ECRI their decision to adopt such a law in the form of a constitutional law. ECRI notes that this decision has been widely criticised both within the Parliament and in civil society for effectively and deliberately leading to non-implementation of the Constitutional Court’s decision, *inter alia* as it entails the use of constitutional means and relative procedures (including the need for a qualified majority in Parliament) in order to deal with matters that should be regulated through primary legislation. ECRI is not aware of the exact content of the law, which is reportedly in the drafting process, nor has it been possible to clarify the envisaged timetable for adoption. In any event, ECRI deplores the fact that, as a result of the non-implementation by the Slovenian authorities of the decision of the Constitutional Court, it is still not possible for approximately 6 000 people to regain the rights of which they were unlawfully stripped over fifteen years ago.
114. More generally, ECRI is deeply concerned at the tone prevailing in Slovenian public and political debate concerning the “erased” since its last report⁴⁰. It

⁴⁰ See “Use of racist and xenophobic discourse in politics”.

regrets that this part of the Slovenian population has in many occasions fallen hostage to merely political considerations, including the exploitation of their situation as a vote gainer, and that the debate around the position of these persons has steadily moved away from human rights considerations. It is particularly regrettable that racism and xenophobia have been encouraged and fostered as part of this process, including through generalisations and misrepresentations concerning the loyalty of these persons to the Slovenian State or the economic burden that restoration of their rights would entail.

Recommendations :

115. ECRI urges the Slovenian authorities to restore the rights of persons erased from the registers of permanent residents on 26 February 1992. To this end, it strongly recommends that the Slovenian authorities implement the April 2003 decision of the Constitutional Court in good faith and without further delay. This includes the immediate resumption and finalisation of the process of issuing supplementary decisions granting retroactive permanent residence rights, and the adoption of a legal framework enabling those “erased” persons who have not yet secured permanent residence or Slovenian citizenship to have their rights reinstated in a manner that is as fair and generous as possible.
116. ECRI urges the Slovenian authorities to take the lead in placing public debate on the situation of the “erased” securely in the realm of human rights and to refrain from generalisations and misrepresentations concerning these persons which foster racism and xenophobia.

The situation of the Roma communities

117. In its second report, ECRI highlighted a number of areas where Roma faced discrimination and particularly serious situations of disadvantage (including housing, employment and education) and where priority action on the part of the Slovenian authorities was therefore needed. In that report, ECRI also highlighted the need to make progress in other areas such as legislation and countering anti-Roma prejudice within society. ECRI notes that since then, some progress has been made in certain areas. It also notes however, that the continuing use made by the Slovenian authorities of the distinction between autochthonous and non-autochthonous Roma has limited the extent of such progress and the positive impact of measures taken on the situation of the overall Roma population of Slovenia.
118. In its second report, ECRI recommended that the Slovenian authorities avoid using this distinction when adopting laws or programmes concerning Roma, in order to ensure that no discrimination occurs. The situation in this area has not changed since ECRI’s second report. The Slovenian authorities have explained that, although not fully defined, the notion of autochthony is recognised in Slovenian legislation and applies to all minority groups, not just Roma. According to the Slovenian authorities, in essence, a community is considered autochthonous when its members have resided in a specific area traditionally or historically and it is only to the communities residing in these areas that special rights and opportunities can, as a rule, be granted. When it comes to the Roma communities, ECRI notes that in practice, this means that special rights and opportunities are granted to Roma communities residing in certain municipalities where the authorities consider that Roma have lived “autochthonously”, and not to those residing in other municipalities. ECRI notes however, that the need for special support for members of the Roma communities throughout the country is so pressing that members of some

Roma communities have had to move to the municipalities where autochthonous Roma live in order to benefit from better opportunities in fields such as education or employment that are available there. ECRI also notes that non-autochthonous Roma represent roughly half of the total Roma population of Slovenia and that they include persons who have lived in Slovenia for decades and second and third generation of persons born in Slovenia. More generally, ECRI has registered unanimous lack of support for the distinction between autochthonous and non-autochthonous Roma among all Roma communities.

119. As already noted in ECRI's second report, Article 65 of the Slovenian Constitution provides that the status and specific rights of the Roma community of Slovenia shall be regulated by law. At present, this article of the Constitution is implemented through a number of sector-specific laws and ad-hoc government programmes or decisions. ECRI notes however, that since its second report, the Office for Nationalities has been entrusted with the preparation of a single piece of legislation which will regulate the rights of the Roma communities of Slovenia. At the time of writing, the law is in the drafting process. The Office for Nationalities has reported that a very wide range of civil society actors have been consulted on this law, and that the most representative Roma organisation has been involved in this process from the very beginning. ECRI welcomes this approach and hopes that the points of view of as many Roma organisations as possible, including those representing the interests of Roma considered by the Slovenian authorities as non-autochthonous, will be taken into account in the preparation of this law, which the Slovenian authorities intend to table in Parliament before the end of 2006.

Recommendations :

120. ECRI recommends that, in their efforts to improve the situation of the Roma communities of Slovenia, the Slovenian authorities avoid using the distinction between autochthonous and non-autochthonous Roma. It considers that particularly in view of the levels of need of this part of the population, any distinction that would affect the Slovenian authorities' ability to cater for all Roma effectively and in a non-discriminatory way should be avoided.
121. ECRI encourages the Slovenian authorities in their efforts to regulate the status and rights of the Roma communities of Slovenia pursuant to Article 65 of the Constitution. It recommends that in this process, the viewpoints of as many Roma organisations as possible be taken into account.
122. ECRI is pleased to note that since its last report, the Slovenian authorities have adopted a strategy to improve the situation of Roma in education (hereafter: the Strategy)⁴¹. The Strategy includes important measures such as the introduction of Roma assistant teachers in schools – the position is being formalised as a new professional standard – who will help Roma children overcome linguistic and emotional barriers and work as a bridge both between pre-school and school institutions and between the school and the Roma communities. While it understands that the limited number of serving Roma teaching assistants is linked to the recent introduction of this measure, ECRI underlines that there is a clear need for these assistants to be recruited in many more schools than is the case at present. The Strategy also provides for the inclusion of Roma children

⁴¹ "Strategy for the Education of Roma in the Republic of Slovenia", adopted by the Ministry of Education, Science and Sport in May 2004.

in pre-school institutions at least two years prior to enrolment in elementary school.

123. In its second report, ECRI expressed concern at the disproportionate representation of Roma children in schools for children with special needs. ECRI notes that the Strategy addresses this question and that since ECRI's second report, the system for referring children to special needs schools has been revised and the persons responsible for implementing this system have been given training. Although the situation is reported to be slowly improving, ECRI notes reports according to which Roma children are still nine times more likely to be sent to special needs schools than their non-Roma peers. As concerns separate classes for Roma children in ordinary schools, ECRI welcomes the fact that the creation of such classes has been prohibited since the school year 2003/2004, although it notes that the arrangements in place in a number of schools have been criticised both domestically and internationally for not complying with this prohibition.
124. ECRI notes furthermore that the Strategy provides for the introduction of Romany language lessons in elementary schools as an optional subject, a measure introduced in 2005, but which reportedly needs to be considerably extended. It also provides for the need for curricula for all children to better reflect Roma culture, history and identity, although ECRI is not aware of concrete progress having been made on this front.
125. More generally, while the Strategy is welcome, the need for an implementation plan setting out time frames, measurable outcomes, responsibilities and financial resources has been repeatedly highlighted in order to ensure that the Strategy is effectively put into practice. ECRI notes that a working group was established in May 2005 in order to draw up such a plan. The Slovenian authorities have indicated that an overall implementation plan exists, although more specific plans covering individual areas are still to be established. In the meantime, the implementation of some of the measures contained in the Strategy has started, although ECRI understands that for the moment these measures have been targeted essentially to areas where autochthonous Roma live.

Recommendations :

126. ECRI encourages the Slovenian authorities in their efforts to improve the situation of Roma in education. It strongly recommends that they ensure that all measures provided for in the "Strategy for the Education of Roma in the Republic of Slovenia" are implemented in practice and that time frames, resources, responsibilities, outcomes and monitoring mechanisms are clearly set out in order to facilitate implementation. It strongly recommends that the Slovenian authorities implement the Strategy throughout the territory of Slovenia and ensure that all Roma benefit from its measures.
127. ECRI urges the Slovenian authorities to ensure that no Roma child without learning disabilities is sent to a special needs school.
128. ECRI recommends that the Slovenian authorities promptly address any instances of separate Roma classes in school.
129. ECRI recommends that the Slovenian authorities strengthen their efforts to: recruit a number of Roma teaching assistants that meets the needs; improve participation of Roma children in pre-school education; extend provision of Romany language classes; ensure that curricula for all children reflect Roma

culture, history and identity and promote appreciation for diversity.

130. In its second report, ECRI expressed concern at the living conditions of many Roma living in settlements without access to basic facilities such as running water, heating and sanitation. In general, ECRI notes that housing is one of the areas where progress for Roma is reported to have been minimal since ECRI's last report. Isolated initiatives to improve the housing conditions of Roma people living in certain settlements have been taken. The Slovenian authorities have also reported that since ECRI's second report, legislation has been amended so as to promote the use by the municipalities of regional development funds for Roma housing improvement. However, ECRI notes that an overall strategy aimed at addressing the particularly poor housing conditions of Roma throughout the country which would clearly indicate means of implementation is not yet in place.
131. As concerns employment, ECRI notes that the Action Programme for Employment of Roma 2003-2006 contains measures such as the inclusion of young unemployed Roma in primary and vocational schools, the inclusion of adult Roma in subsidised public work schemes and the recruitment of Roma assistants in public service offices in order to improve communication between Roma users and the administration as well as service delivery. While welcoming efforts to improve the employment situation of Roma, ECRI notes that the capacity of these measures to provide viable alternatives to social support and sustainable prospects of insertion in the labour market has been questioned.
132. ECRI notes that the Slovenian Government's National Action Plan on Social Inclusion 2004-2006 provided for the preparation of a National Action Programme for Employment and Social Inclusion of Roma. ECRI understands that the programme would not only cover measures to improve social inclusion and employment prospects of Roma and indicate the relevant financial means, but also set objectives in other areas, including education and housing. It seems however, that work in this area has stopped pending the preparation of the general law which will regulate the rights of the Roma communities of Slovenia⁴².
133. While disadvantage and discrimination across all fields of life are a reality for most Roma in Slovenia today, in its second report ECRI noted that the material conditions of a significant part of the Roma population were considerably worsened by the fact that they had not managed to secure Slovenian citizenship, or even residence rights. ECRI notes that many of the Roma in this situation are among the persons who were unlawfully erased from the register of permanent residents in February 1992 and whose rights, as mentioned above⁴³, are yet to be restored.

Recommendations :

134. ECRI strongly recommends that the Slovenian authorities introduce comprehensive strategies which address all areas where Roma experience disadvantage and discrimination, including housing and employment. It recommends that such strategies be in all cases accompanied by

⁴² See above.

⁴³ See above "The situation of the 'erased'".

implementation plans setting out time frames, resources, responsibilities, outcomes and monitoring mechanisms in order to ensure that they do not remain a dead letter. ECRI recommends that the Slovenian authorities ensure that these strategies are implemented throughout the territory of Slovenia and benefit all Roma.

135. In its second report, ECRI expressed concern about persisting stereotypes and prejudice towards Roma among the general population. Although initiatives to combat anti-Roma prejudice and counter racism and discrimination against this part of the Slovenian population have been taken, ECRI has continued to receive reports indicating that prejudice and stereotypes still deeply affect the lives of many Roma in Slovenia. Often, they manifest themselves in daily forms of discrimination (for instance on public transportation, in bars or restaurants) but on some occasions, they have actually resulted in hate speech, including on the part of politicians. ECRI also notes that since its last report, there have been cases where conflicts in certain municipalities have been left to escalate and have degenerated into demonstrations against local Roma communities. ECRI notes that violence, threats and hate speech have been used in these contexts.
136. In its second report, ECRI welcomed the fact that the Law on Local Self-Government required twenty municipalities to provide for the election of a Roma representative in their municipal councils. ECRI is pleased to note that these councillors are in place, although it has received reports according to which their contribution could be made more effective. ECRI notes that in spite of the law and of a decision of the Constitutional Court on the need to comply with it, one municipality, Grosuplje, has not yet modified its statutes and that there is therefore no Roma councillor there. The Slovenian authorities have reported that in 2005, the Law on Local Self-Government was modified in order to provide for sanctions, including dissolution of the municipal council or the removal of the Mayor, in case of non-compliance with its provisions.
137. Finally, ECRI notes that there is general agreement that there are notable examples in Slovenia of successful policies of Roma inclusion and of mutual integration between local Roma and non-Roma communities, particularly in the Prekmurje area. ECRI considers that it would be all the more regrettable if all possible efforts were not made to extend existing good practices in this field throughout the country.

Recommendations :

138. ECRI recommends that the Slovenian authorities strengthen their efforts to combat prejudice and stereotypes towards Roma among the general population, including by ensuring a prompt and unambiguous response in all cases where such prejudice results in more overt manifestations, such as discrimination or hate speech.
139. ECRI recommends that the Slovenian authorities ensure that the provisions aimed at ensuring Roma representation in municipal councils are complied with by all relevant municipalities.
140. ECRI recommends that in their efforts to promote social inclusion of Roma and mutual integration between Roma and non-Roma communities, the Slovenian authorities extend existing good practice in this area throughout the country.

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APPENDIX

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Slovenia

ECRI wishes to point out that the analysis contained in its third report on Slovenia, is dated 30 June 2006, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, ECRI's draft report on Slovenia was subject to a confidential dialogue with the Slovenian authorities. A number of their comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the Slovenian authorities requested that the following viewpoints on their part be reproduced as an appendix to ECRI's report.

Comments of the Republic of Slovenia on ECRI's Third Report on Slovenia
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Summary

One cannot agree with the statement that "Ex-Yugoslav minority groups [...] do not yet enjoy access to opportunities to promote their identity in a way that fully reflects their contribution to Slovenian society". On several occasions the Government of the Republic of Slovenia presented to ECRI and other international bodies a special programme of creating conditions for culturally diverse activity of different minority groups using normative, financial and organisational instruments. Furthermore, the Information-Documentary Centre for Heritage stores valuable artefacts supported by the Ministry of Culture which are accessible using the COBISS library system. In 2005 funds for the above mentioned activities were increased by 100%. The Ministry of Culture ensures dialogue with minority groups, especially during the preparation of annual programmes and reporting on their implementation.

I MONITORING OF THE IMPLEMENTATION OF THE ECRI'S SECOND REPORT ON SLOVENIA

International legal instruments

On 23 November 2006, Slovenia signed the Convention of the Council of Europe on the Participation of Foreigners in Public Life at Local Level.

We have to be aware that the majority of European countries including Slovenia have not ratified the European Convention on the Legal Status of Migrant Workers and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Civil and administrative law provisions

One cannot agree with the statement of ECRI, contained in the last part of the final sentence of item 20: "[...] or the need to place public authorities under a statutory duty to promote equality and prevent discrimination in carrying out their functions - an element which ECRI believes could help to bring about positive changes in public administration in these fields."

We wish to emphasize that, in compliance with Article 7 of the Implementation of the Principle of Equal Treatment Act (UL RS, No. 50/04) all public administration bodies (National Assembly, Government, ministries, other state bodies and bodies of the self-governing local communities) are bound to create conditions within their competencies for equal treatment of persons, regardless of any personal circumstance, by awareness-raising and supervising the conditions in this field and with normative and political measures.

Education and awareness-raising

In addition to the above we wish to point out that a proposal of an optional subject for 7th, 8th and 9th year of elementary school, entitled “The Roma Culture”, is currently in the adoption procedure with the Expert Council for General Education. The proposal is to be discussed in spring 2007.

The Government of the Republic of Slovenia is determined to introduce all necessary measures and activities for a more effective integration of different ethnic groups. In this respect, every year since 2005 an action plan of measures as well as the required activities for a more effective integration of the Roma in the education system are being adopted. The plan of measures is set up in cooperation with the Union of Roma of Slovenia. The President of the Roma Union is chairing the Commission charged with monitoring the implementation of measures. A draft strategy has been drawn up and appropriate measures designed for a more effective integration of migrant pupils into the education system; the draft is scheduled to be dealt with at the Expert Council meeting in April 2007. For the period 2007-2013 we plan to have the possibility to more effectively and more rapidly implement the measures referred to in the mentioned strategies (Roma, migrants) also with the support of the European Social Fund.

The content concerning human and children rights education is being introduced in Slovene school curricula in the following ways:

- within the framework of dedicated subjects such as *Citizenship and Ethics*;
- as a cross-curricular content; and
- as a multi-school approach.

The competent ministry will continue to implement the activities aimed at introducing the three approaches into the elementary and secondary school curricula. Apart from that a law is being drafted according to which all schools will have to prepare annual plans of covering topics like human rights education in the framework of school subjects, curricular and extracurricular activities (“school education plan”). It has to be pointed out here that in both elementary and secondary schools each year the so-called children/student parliament project is already being carried out.

Admission and status of persons without citizenship

- *Asylum seekers*

In relation to the statements found in items **38 and 39** of the Report, we would like to explain that in February 2006 the Republic of Slovenia adopted the Act amending the Asylum Act, which amended and re-defined Article 26 that contains provisions regarding treatment of foreigners, who expresses intent to file an application for asylum. Immediately after the adoption of the Act amending the Asylum Act, an initiative to review the constitutionality of this Article was launched. On 3 April 2006, the Constitutional Court of the Republic of Slovenia issued decision U-I-59/06-11, which suspended the implementation of Paragraphs I, II, III and IV of this Article until final decision is taken by the Constitutional Court. The Constitutional Court has not yet taken this decision. The competent authorities of the Republic of Slovenia do not implement the above Article and thus transfer all foreigners, who apply for asylum at a police station, to the Ljubljana Asylum Home, where application for asylum on the prescribed form is arranged.

In relation to item **44** of the Report, we would like to explain that, as already mentioned, the Ministry of the Interior of the Republic of Slovenia will not implement Article 26 of the Act amending the Asylum Act until the Constitutional Court of the Republic of Slovenia has adopted a decision regarding the initiative to review the constitutionality of this Article. After the Constitutional Court decision is taken, the Ministry of the Interior will act in line with the adopted decision.

As regards the provision of legal counselling to asylum seekers (item **45** of the Report), the Ministry of the Interior follows the provisions of Council Directive 2005/85/EC of 1 December 2005 on minimum standards as regards the procedures for the recognition or denial of the refugee status in Member States. Nonetheless, it complements the provisions, which originate in the Directive and were transferred into the Asylum Act, by carrying out a legal counselling project, which is partly financed with funds of the European Refugee Fund.

We believe that, in line with the applicable legislation, Slovenia provides asylum seekers with all the necessary basic supplies and that all the basic needs of asylum seekers are thus satisfied (item **46** of the Report).

As regards item **47** of the Report, we believe that with the erection of a new Asylum Home appropriate conditions were created to receive and accommodate asylum seekers. Furthermore, it should be added that the personnel of the Asylum Home has always endeavoured to ensure that upon arrival of a large number of asylum seekers these would be accommodated in the appropriate department of the Centre as soon as possible after the formal receipt of the application for asylum. The Ministry of the Interior consistently implements the rights of asylum seekers stipulated in Article 43 of the Asylum Act.

Regarding item **48** we assure you that the Government of the Republic of Slovenia would continue to strive for positive cooperation with other organizations in the field of ensuring rights to asylum seekers.

- ***Refugees***

In connection with the statements referring to the refugee status (items **49** and **50** of the Report), we would like to explain that since 2004, apart from regularly allocating budgetary funds, the Ministry of the Interior has been publishing calls for applications in the field of care and housing of asylum seekers and refugee integration, financed from the Ministry's funds (60%) and from the European Refugee Fund (40%). These funds are allocated to NGOs and non-profit organisations active in the field of ensuring refugee rights.

In connection with the invitation to cooperation of various actors in authority, we would like to explain that representatives of the Ministry of the Interior cooperate closely with representatives of the relevant sectors and specialised services such as Employment Service of Slovenia, social work centres, health-care institutions, and intergovernmental organisations and NGOs.

As regards recommendation No **50**, we can report that one of the priorities of the minority cultural policy included support for cultural activities of and for refugees, thus the endeavours and care for their quality of life and well-being in the society have been strengthened.

Access to public services

- *Access to education*

We would like to add to item 51 that in Slovenia each elementary school has a defined school district from which the pupils enrolled in the school are coming. The situation at the Livada Elementary School is the result of the fact that the school district of each elementary school is defined by the residence address of pupils' parents. This means that, as a rule, the pupils enrol in the nearest elementary school. In the Livada Elementary School district there is an above-average number of families from former Yugoslav republics. It is a relatively new settlement that has been established mostly by families from former Yugoslav republics settling there; furthermore, it has to be pointed out that it is an urbanized settlement with mostly individual houses. To deal with the current situation, both the local community and the competent ministry are encouraging activities aimed at enhancing the pupils' social competence (diverse projects, curricular and extracurricular activities etc.).

We would like to add to item 53 that - having in mind that elementary schooling accessibility is guaranteed primarily through the possibility of enrolment into the nearest school - it may happen that in certain school districts there are increased numbers of specific ethnic groups. This, of course, is in no way caused by a segregation policy of individual schools but is the consequence of specific settlement circumstances. The policy of the competent ministry with regard to the mentioned issues is clear: it is opposed to any activities of hidden segregation, which was also demonstrated through its actions in 2005.

We would like to add to item 54 that in 2006 the Government of the Republic of Slovenia provided financial support to the project entitled "Slovene as the second language".

Vulnerable groups

- *Ex-Yugoslav minority groups / Other groups*

As regards the ensuring of all-round cultural and linguistic development of other ethnic groups and immigrants including the representatives of the ex-Yugoslav minority groups and other groups, we would like to emphasize that they enjoy equal rights as other citizens and in addition benefit from special measures and assistance in the fields of culture and education aimed at their all-round cultural and linguistic development (in line with Articles 61 and 62 of the Constitution of the Republic of Slovenia).

Regarding the statement in item 69 that the Slovenian legal system does not grant special rights to minority groups other than the Hungarian, Italian and Roma, it has to be added that all the mentioned minority groups enjoy special attention of the Government of the Republic of Slovenia, through the Department for Cultural Rights of Minorities and Development of Cultural Diversity at the Ministry of Culture, which also offers expert assistance and legal counselling when responding to calls for applications by the Ministry of Culture for financing their activities. The statement that attempts from representatives of these groups to initiate regular dialogue with the Slovenian authorities had been completely unsuccessful is inaccurate. Representatives of these associations were received on 6 June 2005 by the Minister of Culture, Vasko Simoniti.

We would like to add to item **70** that the Government budget contains a special recurrent budget item No 6424 "Cultural activities of other minority groups". In 2005, funds under this item increased by 100%; financial implementation (funds, used by contractors on the basis of specific claims) for 2006 amounted to 39.6% (on 7 September 2006). Normative provisions relating to the accessibility of public cultural infrastructure for minorities are contained in the Public Interest in Culture Act, Articles 74 to 79. Legal counselling for the implementation of norms in the minority field is also organised (specialised legal expert for this field is employed at the Department for Cultural Rights of Minorities and the Development of Cultural Diversity of the Ministry of Culture).

We would like to add to item **71** that in 2006 the Government of the Republic of Slovenia provided financial support for the drawing up of curricula for three additional languages of the former republics of the SFRY and for the Romany language. Furthermore, the competent ministry in 2006 financially supported the editing of a Croatian language textbook. The introduction of these languages into the curricula has been further stimulated by more favourable norms for the setting up of relevant groups and through various promotional activities.

As regards item **78**, we would like to add that the Government of the Republic of Slovenia devotes special attention to the German-speaking minority groups in Slovenia; in June 2006 it analysed the measures for the protection of their cultural heritage and cultural activities. The comprehensive study showed that the heritage of the Kočevje Germans is particularly well presented and that literature, published on this topic in the past few years, is very rich. Monument protection activities and other cultural activities are also very diverse. Based on extensive analytical findings the Government of the Republic of Slovenia formulated several proposals for additional improvements. The Government of the Republic of Slovenia remains open to dialogue with this minority group. On 19 January 2007, the Ministry of Culture sent a written invitation to the Association of the German speaking groups to collaborate in the drawing up of a cooperation programme with Austria for the period 2008-2012, which is being drafted on the basis of a bilateral agreement, notably in the part concerning minority culture.

With regard to item **80**, we would like to add that Sinti groups have approached the Ministry of Culture. Discussions on their issues and cultural needs have been carried out at the Department for Cultural Rights of Minorities and the Development of Cultural Diversity.

The media

As regards item **87**, we would like to add that the Government of the Republic of Slovenia regularly follows media reporting on minority groups and, if the need occurs, either convenes meetings with all parties concerned or informs the media inspector. The competent ministry also gives priority support to different minority media. In order to improve the Department's qualifications in this field, Head of the Department for Cultural Rights of Minorities and the Development of Cultural Diversity at the Ministry of Culture participated at a seminar on discriminatory and hostile speech, organised by the Human Rights Ombudsman on 27 September 2006.

Public atmosphere

On 24 November 2006, the President of the Republic, the President of the National Assembly and the Prime Minister called on all inhabitants of the Republic of Slovenia to work together to create mutual confidence and tolerance, which is the only guarantee of security, peace and co-existence.

Actions of law enforcement officials

As regards item **96** we do not agree with ECRI's statement, that "racial profiling is not uncommon within the Slovenian police". Giving such a judgement on the basis of an isolated case is incorrect. We would furthermore like to emphasize that already on 14 May 2003, that is three years prior to the amendment to the Police Act, internal instructions were prepared, which include specific warning that the appearance of a person shall not serve as a basis for the identification procedure.

Under item **96**, we would like to underline the wording that in accordance with the Constitutional Court decision, provisions of Article 35 of the Police Act were amended in such a way that circumstances that enable the police to exercise their powers to establish identity are precisely set and do not allow for any confusion.

These circumstances limit police officers in carrying out identification procedures to persons who: need to be apprehended, brought in, arrested or placed in police custody; are located in the area where movement is forbidden or restricted; are located in the area, place or building, where measures related to seeking or tracing a perpetrator of a criminal or minor offence or items or traces that are important in a criminal or minor offence procedure; through their behaviour, actions, appearance or loitering at a particular location or at a particular time give reason for suspicion that they might commit, are committing or have committed a misdemeanour or criminal offence; whose appearance is similar to the description of a wanted person; are obviously helpless and whose identity need to be established to provide assistance; could provide information that would be useful for policing assignments.

Situation monitoring

As regards item **104** of the draft report and recommendation under item **106** about the monitoring of the situation of minority groups in areas such as employment, education, etc., we would like to add that keeping records or statistics on specific data collected on a discriminatory basis - e.g. person's religion, national or ethnic origin - might be contentious. The Constitution of the Republic of Slovenia and international instruments safeguard individual's fundamental right to protection of personality and privacy, meaning that an individual may exercise his/her right not to declare (as regards religion, nationality etc.) particular personal circumstances (that might constitute grounds for discrimination). All state authorities, public administration institutions and NGO's that should wish to keep records on minority groups, marginalised for one reason or another, would in some way have to obtain personal data from the persons, on which statistics are kept (e.g. information on religion of all unemployed persons for the statistics of unemployed Muslims in Slovenia or information on (non-)Roma origin of the unemployed persons for the calculation of the proportion of the unemployed Roma in respect of the total number of the unemployed, etc.). The question arises, whether the mere fact that a person is asked about his/her religion, national or ethnic origin etc. and that subsequently records of such data are kept, may be discriminatory in itself.

Concerning the recommendation that the Republic of Slovenia should collect certain relevant personal data on minority groups, like religion, language, nationality and national or ethnic origin for purposes of monitoring the situation of minority groups in certain areas, it can only be assessed that this is quite problematic from the personal data protection aspect, especially in the context of the principle of proportionality and purposes of such processing of personal data. From the constitutional aspect of the principle of proportionality as enshrined in Article 2 and Article 15, Paragraph 3 in conjunction with Article 38 of the Constitution of the Republic of Slovenia such proposed provisions, if introduced in Slovenian legislation, would be inherently constitutionally disputable. Also, most of the mentioned data (with the exception of nationality) are sensitive personal data by virtue of Article 6, Item 19 of the Personal Data Protection Act of the Republic of Slovenia and special rules apply to their processing or legitimate purposes of processing. It is highly questionable whether statistical purpose of collecting, using and other processing of such personal data (only statistical purpose could be legally stated as grounds for fulfilling the primary purpose of monitoring the situation of minority groups in certain areas) would survive the constitutional review and even before that be considered legitimate by "the Legislator" (the National Assembly of the Republic of Slovenia), mostly due to reasons of individual constitutional rights of proportionality in general and personal data protection in particular.

Also, the right to religious confession is especially guaranteed in Article 41 of the Constitution of the Republic of Slovenia, and its Paragraph 2 states that no-one shall be obliged to declare his religious and other beliefs. Any provision in Slovenian legislation requiring the individual to declare her/his religious belief would run contrary to this provision, even if provided by consent of individual, since statistical purposes could not be deemed sufficient due to this constitutional obstacle.

As a conclusion, such collection and processing of personal data could be deemed to be a disproportionate encroachment upon an individual's right to informational self-determination.

II SPECIAL ISSUES

Situation of the "erased persons"

Before Slovenia's independence (1991) Yugoslav residents (with the exception of foreigners) held both the citizenship of the federal republic in which they were residing or whose citizenship they had chosen, and, at the same time, the citizenship of the Socialist Federal Republic of Yugoslavia (SFRY). Since the declaration of Slovenia's independence the status of the residents who had moved from other federal republics to Slovenia - usually to find employment - has changed. The Republic of Slovenia had to establish a body of citizens of the newly created state. With the aim of facilitating the transformation towards a new system and enabling the majority of citizens of other successor states to the former SFRY to regulate their status in time, the then municipal bodies for internal affairs (at present: administrative units) invited such residents to regulate their status and acquire identity documents of their countries of origin.

Among other laws the 1991 independence legislation contained the *Citizenship Act (ZDRS)* and the *Aliens Act (ZTuj)* that were establishing the body of citizens of the new state. Article 40 of the Citizenship Act allowed for obtaining citizenship of the Republic of Slovenia under rather favourable naturalization conditions. In fact, the only requirement was for a person to have had registered permanent residence in Slovenia on 23 December 1990. Altogether *171,120 persons obtained the citizenship*

of the Republic of Slovenia in this way, whereby they retained their former citizenship.

Persons who did not request Slovenian citizenship had the possibility to obtain a residence permit in the Republic of Slovenia according to the provisions of the Aliens Act. A great majority of citizens of other successor states to the former SFRY who had decided not to apply for Slovenian citizenship but to continue to live in Slovenia did so. However, as of 26 February 1992 those citizens of the former Yugoslav republics who have obtained neither Slovenian citizenship nor a residence permit according to the Aliens Act were considered as aliens without legal status (and hence without residence permit on the territory of the Republic of Slovenia). On the same date permanent residence registration and identity documents issued in the former SFRY became invalid for all citizens of successor states to the former SFRY. These citizens were not “erased” by any authority of the Republic of Slovenia. The designation “erased persons” was a fabrication of a political and media campaign, and was used for those persons who in the given timeframe have opted neither for Slovenian citizenship nor for a regulation of their status according to the Aliens Act.

The State became aware of the delicate and problematic situation of this group of people. It has been established, on the basis of the permanent residence register, that *18,305 citizens of the states successors to the former SFRY had not regulated their status*. As a result, in 1999 the *Act Regulating the Legal Status of Citizens of the Former Yugoslavia Living in the Republic of Slovenia (ZUSDDD)* was adopted, thus making it possible for permanent residence permits in Slovenia to be acquired under revised, more favourable conditions as compared to those defined for the period after 26 February 1992 by the Aliens Act. Indeed, the only condition for a person to obtain a residence permit according to the said Act was that he/she *de facto* had resided in the Republic of Slovenia since 23 December 1990 or 25 June 1991. By 31 October 2006, *13,301 applications for the issuing of a permanent residence permit were filed according to the ZUSDDD Act*. In 12,174 cases permanent residence permits were issued, in 1,346 cases the procedure was stopped because of failure of the interested party to cooperate, and 534 applications were refused.

In 2002, the *Act Amending the Citizenship of the Republic of Slovenia Act* was adopted, allowing (Article 19, transitory provision) easier acquisition of Slovenian citizenship to all foreigners who had permanent residence in the Republic of Slovenia on 23 December 1990 and had lived in Slovenia without interruption since that date. According to Article 19 of the Act Amending the Citizenship Act, the deadline for applications was 29 November 2003; 2,959 applications were filed.

In its decision No U-I-246/02-28 of 3 April 2003 the Constitutional Court of the Republic of Slovenia ruled on the constitutionality of several provisions of the ZUSDDD Act. A new constitutional law was drafted in order to eliminate the established nonconformities and complement the legislation with regard to the issuing of permanent residence permits for the citizens of states successors to the former SFRY:

- a) who had registered permanent residence in Slovenia on 23 December 1990, i.e. the day of the plebiscite on the independence and sovereignty of the Republic of Slovenia;
- b) have since that date *de facto* lived in Slovenia - under the condition that they have already applied for a permanent residence permit according to the Aliens Act, but that their application was refused.

The newly proposed law amends Article 13 of the *Constitutional Act Implementing the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia (1991)*, which stipulates that citizens of other republics of the former SFRY who had registered permanent residence in the Republic of Slovenia on 23 December 1990, and had actually lived in Slovenia, held the same rights and were subject to the same obligations as the citizens of the Republic of Slovenia (except for the purchase of immovable property) up to the date when the provisions of the Aliens Act became applicable to them.

An analysis was carried out of data on persons for whom it had been established, on the basis of permanent residence register, that their status had not yet been regulated. The analysis revealed that the individuals in question had moved away, had been released from Slovenian citizenship or had died. This was the case of 4,205 persons who had not regulated their status and were, consequently, not in a position to register residence. In January 2006 the analysis was repeated and showed that the register still comprised 4,090 persons without a status; 47 individuals had acquired citizenship, 33 had regulated alien status and 9 had died. It can be inferred, on the basis of these data, that *some 4,000 persons from the mentioned register do not reside in the Republic of Slovenia any more.*

All of the above proves that the citizens of other states successors to the former SFRY had been given numerous opportunities to regulate their status in the Republic of Slovenia. Official records also show that a great majority of these persons have regulated their status and reside in the Republic of Slovenia without any problems. Another revealing information in this respect is that, in the period from the end of 2004 to 30 October 2006, only 219 applications for permanent residence permit according to the ZUSDDD Act were filed.

The approach the Republic of Slovenia opted for in solving this complex and sensitive issue, which was new for Europe in general, has been evaluated very positively by various global organisations dealing with such matters. At an international seminar in Ljubljana on 1 December 1993, the experts of the Council of Europe's Committee on Nationality acknowledged that Slovenia's resolution of this issue was in perfect accordance with all standards concerning the regulation of citizenship by successor states. The same was the case in 1995 in Geneva, where UN Human Rights Committee was discussing Slovenia's 1st report on the respect of human rights and adopted it without objection, and in New York, where the Sixth Committee of the UN General Assembly verified and approved the conformity of Slovenian legislation with the international standards. It needs to be pointed out that the Republic of Slovenia and all its branches of authority have been continuously amending the relevant legislation, at all times following European legal practice. The latter includes the provisions of the European Convention on Nationality, which is one of the most progressive instruments in this field. The said Convention was adopted by the Council of Europe in 1997, which is 6 years after the introduction of relevant Slovenian legislation. The principles contained in Article 6 of the Convention, referring to citizenship and successor states, had already before that been included in relevant Slovenian legislation. The latter consistently respects one of the fundamental principles of the said Article, namely the principle of free will and decision of each individual.

The dramatized comments on the "erased" issue mostly result from insufficient information. A lot of dust was also raised by the claims and incentives of those "erased persons" who were regulating their status several years after elapsed deadlines or who encountered any kind of difficulties in their actions. Due to the

difficulties encountered in regulating their status some of them expected extremely high damages from the Slovenian state, which resulted in bewilderment and anger of those who had regulated their status in time. Of course, while consistently respecting human rights, Slovenia will not hide from responsibility for any faults, errors or misuse that may have occurred. Slovenia is ready to repair any possible damage that may have been caused by unlawful action of state officials or authorities.

Situation of the Roma community

The Roma Community Act will definitely contribute to the settlement of the situation of the Roma community in the Republic of Slovenia. At its session on 23 November 2006, the Government of the Republic of Slovenia determined the text of the draft law and submitted it into parliamentary procedure to the National Assembly. The proposed umbrella law on Roma is to provide a comprehensive legal framework for this issue and constitutes the first legal act of this kind in the EU. The discussion of this law was conducted several years and included organisations of the civil society, local communities, deputy groups, the Union of Roma of Slovenia and the Forum of Roma Councillors.

The legal basis for the regulation of the status of the Roma community in the Republic of Slovenia is provided for by Article 65 of Slovenia's Constitution, which stipulates as follows: "The status and special rights of the Roma community living in Slovenia shall be regulated by law." Article 65 of the Constitution is still being implemented through sector-specific legislation, and thus by twelve (12) sector-specific acts. The above constitutional basis relates only to members of the Roma community living in the territory of Slovenia for centuries. The Act Amending the Local Government Act also defines the territory, where Roma in Slovenia reside traditionally, and it is only in these areas determined by the borders of the relevant municipalities that Roma enjoy special rights (special facilities and privileges) ensured to them by the legislator through individual laws. Roma in the Republic of Slovenia residing outside of the enumerated 20 municipalities have equal rights and obligations as any other citizen of the Republic of Slovenia, provided that they have this status (e.g. relatively high social welfare benefits), otherwise, they enjoy the rights to which they are entitled as aliens in compliance with international norms and national legislation.

Some additional advantages of Roma constitute what is called positive discrimination.

We would like to add that in the field of culture there has never been any differentiation between autochthonous and non-autochthonous Roma in creating conditions for their cultural activities and creativity.

Data on the education structure of the Roma community show low education structure of the members as the majority has not finished elementary school. To improve the integration of Roma into society, the Strategy for Education of Roma in the Republic of Slovenia was adopted in 2004. The Strategy provides for the integration of Roma children in pre-school institutions at least two years before they start elementary school, i.e. with four years of age at the latest, with the purpose of language learning (both Slovenian and Roma).

The practice of classifying children in groups according to their level of knowledge, as was the case of the Bršljin elementary school is of general nature. It is important that the solution (the formation of special groups regarding the level of knowledge)

is not permanent, but temporary, (perhaps lasting only a few weeks or months) - depending on the progress of pupils. The Roma education and information centre (REIC) is an institution established to improve the level of education. A working group for the preparation of an occupation standard "Roma assistant" and "Roma coordinator" is active within the Centre of the Republic of Slovenia for Vocational Education and Training. On 18 December 2006 the Expert Council for Technical and Vocational Education adopted the occupation standard "Roma Assistant" and the occupation standard "Roma Coordinator", as well as the Catalogue of Standards of Professional Knowledge and Skills for the Professional Qualification "Roma Assistant" and the Catalogue of Standards of Professional Knowledge and Skills for the Professional Qualification "Roma Coordinator".

The data of the 2002 census on the number of unemployed persons among Roma as compared to the remaining Slovenian population show that the number of unemployed persons among Roma is above average, i.e. approx. 72.3 per cent. Roma thus mostly depend on social assistance from the state, some of them are also into grey economy.

In order to reduce unemployment of Roma, the Ministry of Labour, Family and Social Affairs and the regional offices of the Employment Service have been implementing special active employment policy programmes for unemployed Roma for several years. The purpose of special programmes is social inclusion, preparation for employment, which includes education and training, and employment itself. These programmes are tailored to the needs of specific groups. We should mention some of the programmes, special measures and projects for the employment of Roma: the social inclusion programme, special employment programmes, special education programmes, Roma employment programme, and equal employment opportunities for Roma - our common challenge programme.

The Ministry of Labour, Family and Social Affairs allocated funds within the EQUAL Community Initiative Programme in Slovenia for two development partnerships, the activities of which are aimed at members of the Roma community in the Republic of Slovenia - development partnership Roma employment centre coordinated by the Škocjan Municipality, and development partnership Roma education and information centre coordinated by the Regional Development Agency Mura Ltd.

The prerequisite for a successful inclusion of Roma in society (education, employment, etc.) is regulated and decent living conditions; therefore, Slovenia devotes much attention to this area. Thus, between 2002 and 2004, Slovenia allocated, on basis of the call for applications by the Ministry of the Economy, grants for the improvement of Roma settlements; in 2004, the Public Fund of the Republic of Slovenia for Regional Development issued »Call for applications for co-financing projects of basic public utility infrastructure in Roma settlements"; the Slovenian Government adopted the Implementation Programme of Assistance to Municipalities in order to settle the most urgent public utility infrastructure in Roma settlements. In 2006, SIT 314 million was allocated for the Implementation Programme; in 2007 SIT 343 million and in 2008 SIT 350 million.

The Ombudsman also endeavoured to resolve the problems of discrimination and organised in autumn a series of seminars within the "Face the Discrimination" project aimed at certain target groups, e.g. "Ethnic and racial discrimination", "Roma and discrimination".

Amendments to Items 62 and 104 of ECRI's Third Report on Slovenia

1. We would ask the last sentence of Paragraph 62 to be deleted.

Clarification:

Statement that ECRI has established that members of minority groups only rarely reach senior or leading positions within the civil service is superficial and not supported by data. In view of the applicable Civil Servants Act (ZJU), which stipulates through the principles under Article 7 that:

"The employment of civil servants shall be implemented so as to guarantee equal access to work posts for all interested candidates under equal conditions, and to guarantee the selection of candidates most professionally qualified for the performance of tasks in the respective work post,"

the statement is also unfounded.

The above principle is embodied in legal provisions. Officials are selected on the basis of open competition; in the open competition proceedings, candidates are treated equally and the selection is made on the basis of best-demonstrated professional qualifications (Article 27 of the ZJU). In the case of official work posts in bodies required by law to use as official languages also the languages of national communities, the knowledge of such languages is also set as a condition for such work posts.

Open competitions are public (published in the Official Gazette of the Republic of Slovenia or in daily newspapers, and on the web-site of the ministry responsible for administration - Article 58 of the ZJU). The contents and the implementation of an open competition and the selection procedure are also regulated by law (Articles 58-65 of the ZJU). All the above facts guarantee consistent implementation of selection principles of best-demonstrated professional qualification.

For the implementation of the procedure, General Administrative Procedure Act was set as the procedural regulation. Candidates, who were not selected but satisfied formal conditions for the work post are allowed by law to inspect all the data included by the selected candidate in the application to the open competition and all materials of the selection procedure.

Article 65 of the Act gives the candidates, who were not selected, the right to appeal to the competent appellate commission, if they believe:

- 1 that the selected candidate failed to satisfy the competition conditions;
- 2 that they satisfy the competition conditions, but were not given the opportunity to participate in the selection procedure;
- 3 that the selected candidate manifestly failed to achieve the best results according to the criteria in the selection procedure;
- 4 that material violations of open competition procedure or of the selection procedure have occurred.

No appeal is allowed for candidates that have not participated in the individual procedural acts of the selection procedure and have failed to excuse their absence in spite of being regularly summoned.

Appeals suspend the appointment of the selected candidate to title and the conclusion of the contract of employment.

An administrative dispute may be initiated against the decision of the appellate commission. In case where the administrative court finds for the plaintiff, **the aggrieved party may be awarded damages in the amount of no less than one and no more than three minimum gross monthly salaries for the work post for which the aggrieved party applied; in case pursuant subsection 1 in paragraph 1 of this Article, the administrative court may annul the decision on selection. The court awards the damages with due consideration of the seriousness of violations and the consequences suffered by the plaintiff. In the case of the annulment of the decision on selection, the competent appellate commission annuls - out of official duty - the act on appointment and the contract of employment.**

In view of the above and because all candidates for all official work posts in state and public administration have all mechanisms for the protection of their rights at their disposal, including the right to damages in case of established violations by the national administration bodies, we propose that the above stated sentence of item 62 of the Report be deleted.

2. We would ask the current third sentence of Paragraph 104 to be **deleted and replaced by the following more specific wording:**

'In 2011 a completely register-based census is planned in Slovenia. The data will be obtained only from already existing and available registers and administrative sources and the Statistical Office will not be able to obtain via registers some data which were collected with field enumeration at the 2002 Census. Therefore in the near future the Statistical Office of the Republic of Slovenia will initiate the debate among Slovenian authorities about alternative data sources and how to collect these data in the future years.'

