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REPORT BY MR ALVARO GIL-ROBLES, COMMISSIONER FOR HUMAN RIGHTS,

ON HIS VISIT TO SLOVENIA

11 – 14 May 2003

for the attention of the Committee of Ministers and the Parliamentary Assembly

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INTRODUCTION

In accordance with Article 3 (e) of the Committee of Ministers Resolution (99) 50 on the Council of Europe Commissioner for Human Rights, I was pleased to accept the invitation extended by Dr. Dimitrij Rupel, Minister for Foreign Affairs of the Republic of Slovenia, to pay an official visit to Slovenia on 11-14 May 2003. I would like to thank the Minister for his invitation and for the resources he placed at my disposal throughout the visit, as well as Ambassador Darja Lavitžar Bebler, Permanent Representative of Slovenia to the Council of Europe, and Ms. Milena Smit, Ms. Helena Blatnik-Hauzler and Ms. Petra Pirih of the Ministry for Foreign Affairs for their cooperation and assistance in arranging this visit. I am also grateful for the support of Ms. Liana Kalcina, Director of the Council of Europe Information and Communication Centre in Ljubljana, who provided valuable assistance in organising the visit, in particular the meeting with non-governmental organisations. I visited the regions of Ljubljana, Dob and Grosuplje, and was accompanied by Ms. Satu Suikkari and Mr. Alexandre Guessel, members of the Commissioner's Office.

During the visit, I had meetings with Dr. Dimitrij Rupel, Minister for Foreign Affairs, Mr. Ivan Bizjak, Minister of Justice, Dr. Rado Bohinc, Minister of Interior, Dr. Vlado Dimovski, Minister of Labour, Family and Social Affairs, Mr. Borut Pahor, President of the National Assembly, Mr. Matjaž Hanžek, the Human Rights Ombudsman, Dr. Dragica Wedam Lukic, President of the Constitutional Court, representatives of the Government Office of Minorities, Mr. Dušan Valentincic, Director of the National Prison Administration, Mr Joze Podrzaj, Director of the Dob Prison; Mr Andrej Anžic, Deputy Director General of the Slovenian Police and Mr Ivan Robnik, President of the High Labour and Social Court. I also met with representatives of the Slovenian Bar Association, the Association of Judges, trade unions and several non-governmental organisations. I visited the Dob Prison and a Roma community in Grosuplje. My team visited the Centre for Foreigners in Postojna and an institution for persons with disabilities in Lukavci.

GENERAL OBSERVATIONS

1. My visit, which coincided with the 10th anniversary of Slovenia's membership to the Council of Europe, provided an opportunity to look back at the developments during the past ten years. The high level of democracy and respect for the rule of law achieved during this period indicates that these values must have been deeply rooted in the Slovenian society long before its independence in 1991; otherwise such significant progress would have been difficult to achieve in just more than a decade after the collapse of the totalitarian political system of the Socialist Federal Republic of Yugoslavia. I was particularly impressed by the activeness of the civil society in Slovenia and the openness of the authorities to recognise and discuss areas of concern. The establishment of the office of an independent Human Rights Ombudsman and the important role afforded to the Constitutional Court in deciding upon constitutional complaints regarding violations of human rights, showed the determination of the Government to offer possibilities for individuals to obtain redress in cases where their human rights might be threatened. The current plans to complement the existing institutional framework for the protection of human rights through the creation of a National Institution for Human Rights, are commendable.

2. Shortly after Slovenia joined the Council of Europe on 14 May 1993, it ratified the European Convention on Human Rights on 31 May 1994 as well as Protocols 1 through 11. Slovenia has signed, but not yet ratified, Protocol No. 12 relating to non-discrimination and Protocol No. 13 on the concerning the abolishment of the death penalty in all circumstances. Slovenia has ratified the Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages, the European Convention for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment, and the Revised European Social Charter, and the 1995 Protocol to the Social Charter providing for a system of collective complaints.

3. Despite the relatively high level of respect for human rights reached during the past ten years, there is clearly a need for further improvements, both at the legislative level and in practice. It appears to me that some of the remaining concerns, particularly those relating to minority protection, had their root in the strong sense of national identity that emerged following Slovenia's independence in 1991. National identity seemed to be frequently equated with Slovenian ethnicity, language and culture, with less attention being afforded to the rich variety of the Slovenian society. Certain problems still remain that emerged from the transition period, notably those relating to the status of the persons who lost their permanent residents rights following the independence, and those involving rights of tenants and rights of owners of privatised property. Slovenia has not remained free from certain recurrent human rights problems, common throughout Europe, such as discrimination, racism and trafficking in human beings. I will discuss these matters in more detail in the following chapters, as well as other areas where I feel further progress is needed.

I. MINORITY PROTECTION AND NON-DISCRIMINATION

4. As was noted in Slovenia's report to the Advisory Committee for the Protection of National Minorities[1], the geographic position of Slovenia, at the juncture of the Slavic, Latin and German cultures, has significantly influenced the history and development of the Slovene statehood. This diversity is also reflected in the population of Slovenia – in the 2002 census, approximately 25 different ethnic affiliations were declared. Only a few of these groups are, however, afforded minority status. Slovenia considers as national minorities the autochthonous Italian and Hungarian national communities[2], whose rights are guaranteed in Article 64 of the Slovenian Constitution. The protection of these minorities appears to be secured in a comprehensive manner in most areas. Slovenia has also declared that the provisions of the Framework Convention for the Protection of National Minorities shall apply to the members of the Roma community, who live in the Republic of Slovenia,[3] and the Slovenian Constitution requires that "the status and special rights of the Romani community living in Slovenia shall be regulated by law".[4] The Roma do not, however, enjoy the same

[1] Report submitted by the Republic of Slovenia pursuant to Article 25, paragraph 1, of the Framework Convention for the Protection of National Minorities, AFCF/SR(2000)004.

[2] "National community" is the terminology used in the Constitution of the Republic of Slovenia.

[3] See the Declaration contained in a Note Verbale from the Permanent Representation of Slovenia, dated 23 March 1998, handed to the Secretary General at the time of deposit of the instrument of ratification of the Framework Convention, on 25 March 1998.

[4] Article 65 of the Constitution of the Republic of Slovenia

level of minority protection as the Hungarian and Italian national communities, and even within this minority, there are differences in treatment depending on whether the Roma are autochthonous or non-autochthonous ("indigenous" or "new"). Groups of persons originating from other parts of the former Yugoslavia do not enjoy any minority status, although numerically, Serbs, Croats and the Bosniacs are the largest minority groups.

5. The differentiated level of protection afforded to different minority groups, which will be discussed in more detail in the following chapters, was identified as a source of significant concern by many of the NGOs with whom I met during the visit. A number of other international human rights mechanisms have also raised concerns in this respect, including the United Nations Committee on the Elimination of Racial Discrimination.[5]

Situation of the Roma

Normative framework

6. On the basis of Article 65 of the Constitution relating to the status and special rights of the Roma, regulations have been introduced to certain laws[6], but the process of giving this constitutional provision full effect in all areas remains uncompleted. For instance, the Roma do not have the possibility of using their mother tongue in the relations with the administrative authorities and the provision of education in the Romani language is very limited. Consequently, I encourage the legislator to continue the efforts to create an adequate legal framework in close cooperation with the Roma communities, in order to guarantee to the Roma the rights needed for an effective minority protection.

7. In this process, I find it important to remedy the existing differences in the level of protection provided for the Roma on the basis of whether they are autochthonous or non-autochthonous. These notions are not legally defined, and even a person who is a citizen of Slovenia or whose family has long roots in Slovenia, is not necessarily considered 'autochthonous'.[7] It is evident that the use of this notion raises legal and practical uncertainties and carries a risk of arbitrary exclusion.

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[5] See, the *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Slovenia, 21 March 2003,* Doc No. CERD/C/62/CO/9.

[6] Including *Law on Local Self Government* (Official Gazette RS, NO 72/93 ADD MOD), *Law on Local Elections* (Official Gazette RS No. 72/93), *Organization and Financing of Education Act* (Official Gazette RS No. 12/96); *Preschool Institutions Act* (Official Gazette RS, No 12/96).

[7] A statement by the European Roma Rights Centre of 3 March 2003 to the United Nations Committee for the Elimination of Racial Discrimination defined the distinction as follows: "autochthonous Roma are those whose families have lived continuously in Slovenia for generations, and non-autochthonous Roma are those who are perceived to have primary links to other former Yugoslav Republics, other foreign countries, or are otherwise viewed as not having a full claim on belonging to Slovenia." See also Slovenia's initial report to the Advisory Committee on the Framework Convention for the Protection of National Minorities in November 2000, op. cit. in footnote 1.

Discrimination

8. Irrespective of their legal status, the Roma frequently continue to be disadvantaged in many spheres of life, including employment, education and housing, particularly in some parts of the country. The Ombudsman described the situation as being so poor that each Roma in Slovenia could potentially be his client, however, he receives relatively few complaints from them. Undoubtedly, the Government has not remained silent in face of this situation. The adoption of two national programmes, the 1995 *Programme on Measures for Helping Roma in the Republic of Slovenia* and the 2000 *Programme on Equal Employment Opportunities for Roma – a Joint Challenge* were important steps towards enhancing the respect for social, economic and cultural rights.

9. An evaluation of the implementation of the 1995 National Programme for the Roma concluded that prejudices against the Roma remain part of the everyday Roma life. It was noted that the majority of the Roma still live in isolated settlements located in the outskirts of village communities and some of their non-Roma neighbours wish to have as little contact with the Roma as possible. Prejudices not only manifest themselves in relations between individuals, but frequently impact on the conduct of local authorities, leading, for instance, to uneven allocation of resources for infrastructure and housing projects between the Roma and other inhabitants. I was also informed about some clear instances of discrimination by the authorities. For instance, a Roma woman informed me that while attempting to look for work through a municipal employment office, she was turned away, since 'no employment for the Roma would be available'. It is imperative that the authorities launch, in close cooperation with the Roma communities, initiatives to reduce intolerance against the Roma in the society. I would also like to encourage the Roma themselves to seek more actively redress in situations where they feel having been discriminated against, through the courts, or the Human Rights Ombudsman.

Education

10. According to reports that I received[8], many Roma children continue to be placed in special classes for children with special needs, and some schools have special Roma classes. The Act on Organizing and Financing of Education states that "[s]pecial criteria and standards shall be determined for education of: … Romany children" and the Preschool Institutions Act talks about "classes of Romany children". Although I was informed that these provisions were introduced with good intentions mainly to overcome language barriers[9], the manner in which they are implemented may aggravate the exclusion of Roma children and carries a risk of discrimination. Being subjected to special classes often means that these children follow a curriculum inferior to those of mainstream classes, which diminishes their prospects for further education and eventually, for finding employment in the future. Measures towards

[8] See eg. *Statement by the European Roma Rights Center*, of 3 March 2003 to the United Nations Committee on the Elimination of Racial Discrimination, and *Concluding Observation of the Committee on the Elimination of Racial Discrimination*, op. cit in footnote 5.

[9] The Government noted in its report to the Advisory Committee of the Framework Convention for the Protection of National Minorities that "[t]he provisions in the area of education consider the specific needs of Romany children. They are aimed at ensuring the integration of Romany children into broader society while preserving their identity and culture."

desegregation should therefore immediately be taken. For instance, Roma children should more frequently attend pre-schools where they can learn the Slovenian language, and school assistants should be provided at regular classes when needed.

Political participation

11. An important step towards enhancing the participation of the Roma in public life was taken in 2002 when the *Act on Local Government* was amended. This Act, which was based on a decision of the Constitutional Court,[10] enumerates 20 municipalities in which the Roma community must be ensured the right to elect a municipal counsellor by the local elections in November 2002. By that deadline, Roma councillors were elected in 14 municipalities. The Minister of Interior informed that six more councillors had been elected since then, and one municipality is still to implement this provision.

12. There is no provision in the legislation seeking to ensure the participation of Roma communities in the National Assembly, although such a provision exists for the Hungarian and Italian minorities. I would encourage that this question be addressed in the context of the legislative process under Article 65 of the Constitution. Such participation would greatly enhance the implementation of Article 15 of the Framework Convention on the Protection of National Minorities with regard to the Roma minority, which states that "[t]he Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them".

Visit to a Roma community in Veliko Mla œvo village in Grosupl je

13. During my visit to Veliko Mlacevo village in Grosuplje, the Roma representatives drew my attention to two main problems facing this community. The families had been living for decades in this village, but there was no adequate infrastructure in place, including electricity or running water in the houses. There was only one outside water pump, which was used for all purposes, be it drinking, cooking, cleaning or agriculture. In the wintertime, the water pipe was often frozen and the families had to melt ice to have drinking water. Having no electricity also meant that the children could not do their homework in the evenings.

14. Another problem faced by the community was that the above-mentioned *Act on Self-Government* remains unimplemented in this municipality, since the municipal council has not amended the municipal regulations enabling the election of a Roma representative to the municipal council.

15. Following the visit, a member of my team met with the mayor of Grosuplje to discuss these problems. The mayor stated that there had been a number of legal obstacles hindering the placement of appropriate infrastructure in the village. Moreover, the prejudices among the rest of the population had resulted in strong resistance towards any investments benefiting the Roma. At the time of independence, the land was denationalised and declared as agricultural

[10] The decision of the Constitutional Court declared some provisions of the original version of the Act on Local Self-Government unconstitutional, since they did not provide an adequate legal basis for Roma candidates to run as members of the Roma community in local elections.

land. In 1997, the Municipality had expressed its interest in buying the land in order to put appropriate infrastructure in place, but it had not succeeded, since certain regulations prevented such a transaction. For instance, an agreement of the Government would be needed in order to change the status of the land, but such agreement had not been forthcoming. At present, the municipality is attempting to find a solution to the situation through a process of environmental planning and regrouping of land in the municipality. According to the Mayor, the process is likely to be a lengthy one, possibly allowing the setting up of an appropriate infrastructure only next year.

16. Given the urgency of this matter, I would suggest that all the parties concerned – including the inhabitants of the village, the municipal authorities, the relevant State authorities and the owner of the land - get together without delay in order to find an early solution to this problem. In my view, the legal obstacles are clearly such that they can be overcome provided that there is the necessary political will.

17. With regard to the Roma representation in the municipal council, the Mayor noted that the issue had been placed on the agenda of the municipal council already four times, but each time the Council had rejected it. During the last vote, some members of opposition parties had threatened to block the meetings of the council, if the question would be brought to the agenda anew. I cannot but conclude that the municipal council is violating the amended Local Government Act. In my subsequent discussions with the State authorities, I underlined that the responsible ministries, namely the Ministry of Interior and Ministry of the Environment, should take appropriate measures to sanction this violation, and to ensure that the Roma living in this municipality can benefit from the above-mentioned law.

Persons originating from other parts of the former Yugoslavia

18. Following the dissolution of the former Yugoslavia, the ethnic communities of persons originating from other parts of the former Yugoslavia became *de facto* minorities in Slovenia, but they have not been recognised as such, and do not enjoy minority protection. Many of them migrated to Slovenia between the 1960's and 1980's, but there are also traditional settlements of Serbs and Croats in Slovenia. Although the constitutional provisions guaranteeing a certain degree of protection for persons belonging to 'ethnic communities' are applicable to these groups[11], the fact that they remain unrecognised as minorities in Slovenia, poses significant obstacles to the preservation of their language, religion, culture and identity.

19. Organisations representing these groups have been actively advocating for obtaining a minority status since Slovenia's independence. They maintained that in some respects, their situation had deteriorated since independence. For instance, obtaining education in their mother tongues is now much more complicated than before. An organisation representing the Bosniacs reported that they have no access to public media or to any TV or radio channel broadcasting in the Bosnian language.

[11] The Constitution states in Article 61 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 and script" and in Article 62 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 State and other bodies performing a public function".

20. I raised the situation of these minorities - which has been the subject of criticism also by other international human rights mechanisms[12] - on a number of occasions during my visit. The director of the Office of National Minorities noted that the question of possible recognition was very complicated because these persons have not been "traditionally" living in Slovenia, but arrived mainly as economic immigrants during the time of the former Yugoslavia. I also raised this issue with the President of the National Assembly who noted that, although the question is being discussed, it would be difficult to afford these groups a status similar to that of the Hungarian and Italian minorities. However, in order to ensure that the implementation of the Framework Convention does not create a source of arbitrary or unjustified distinctions, I strongly encourage the Government to consider including these groups in the application of the Convention, and to enact appropriate legislation on the basis of the relevant constitutional provisions.

21. The lack of a clear counter-part within the administration was identified by representatives of these groups as a major obstacle towards finding solutions to their problems. During my discussions with the Director of the Office of National Minorities, I encouraged him to initiate an active dialogue with these minorities.

Other issues relating to non-discrimination

22. The Constitution guarantees the principle of equal treatment, and several legislative provisions include more detailed provisions prohibiting discrimination.[13] A number of legislative gaps do, however, remain in the field of non-discrimination, which was identified by many NGOs as a major impediment to achieving full equality. In order to tackle societal discrimination, I would strongly encourage the enactment of legislation aimed at combating discrimination in the private sphere, such as access to private housing and access to services. I also encourage the authorities to take steps towards the ratification of Protocol 12 to the European Convention on Human Rights, and towards ensuring the full and prompt transposition of the EU equality directive into the Slovenian legislation. [14]

23. Almost 48,000 persons declared themselves as Muslims at the 2002 official census, making Islam the second most widespread religion in Slovenia. However, despite the efforts by the Slovenian Muslim community over the past 30 years, there is no Mosque or Islamic Cultural Centre in Slovenia. As a result, Muslim worshippers have to meet in apartments, garages and other private premises. The Minister for Foreign Affairs with whom I raised this issue, noted that the authorities had no objection to the building of the mosque, and that the mayor of

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[12] The UN Committee for the Elimination of Racial Discrimination noted "that minority groups such as Croats, Serbs, Bosnians and Roma do not enjoy the same level of protection from the State party as the Italian and Hungarian minorities. In this connection, the Committee recommends that the State party, ensure that persons or groups of persons belonging to other minority groups are not discriminated against." Op. cit in footnote 5.

[13] See in particular, *The Equal Opportunities Act of 2002* and the *Employment Relations Act 2002* which prohibits direct and indirect discrimination in the field of employment on the grounds of gender, race, age, state of health and disability, religious, political or other conviction, sexual orientation and national origin. Also, the *Criminal Code* provides penalties for breach of the right to equality, and discrimination is prohibited in the *Associations Act*, the *Media Act* and the *Foreigners' Act*.

[14] Directive 2000/43/EC '*Implementing the principle of equal treatment between persons irrespective of racial or ethnic origin*'. The European Commission noted, in its *2002 Regular Report on Slovenia's progress towards accession,* that further progress is needed to ensure the full transposition and implementation of the said directive, Doc. SEC(2002) 1411 of 9 October 2002, p. 24.

Ljubljana had indeed already taken the decision to allow the construction of the Mosque, a decision supported by the Government. While a location has been identified, the Minister invoked resistance by the local population towards building the Mosque. I welcome the decision allowing the construction of the Mosque, and would like to urge the authorities not to give in to the pressures exerted by some parts of the population against the building of the Mosque. Having a place to worship is an integral part of one's right to freely exercise his or her religion. In this context, I would like to refer to the Recommendation by the European Commission against Racism and Intolerance which called upon member States to "ensure that the Muslim communities are not discriminated against as to the circumstances in which they organise and exercise their religion'. [15]

24. Instances of discrimination on the basis of sexual orientation were reported to me by NGOs and the Ombudsman, who receives a relatively high number of complaints relating to discrimination on such grounds. According to research conducted in 2001 by the non-governmental organisation SKUC-LL, 49 percent of the respondents had experienced violence or harassment on the grounds of their sexual orientation, and over 20 percent reported about discrimination at workplace. According to the research, the response by the police to cases of violence or harassment was often inadequate. I was also concerned to learn that homophobic statements were frequently published in the media.

25. It is to be recalled that Article 14 of the Constitution of Slovenia prohibits discrimination on the basis of sexual orientation. [16] I welcome the fact that discrimination on the basis of sexual orientation is explicitly prohibited in the new Employment Act, and would suggest that, in the process of complementing anti-discrimination legislation, similar provisions be included in other laws as well, in order to strengthen the public perception of discrimination on grounds of sexual orientation as a prohibited act. In relation to the differentiated treatment of same-sex partners in legal and social respects, which was also reported to me, I would like to draw the attention of the legislature to an important judgment recently issued by the European Court, in which the Court found a violation of Article 14 on the grounds that a same-sex couple was treated differently in a matter relating to tenancy for the purposes of protecting the family in the traditional sense. [17]

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[15] General Policy Recommendation by the European Commissioner against Racism and Intolerance No. 5 *Combating intolerance and discrimination against Muslims,* Doc. CRI (2000)21.

[16] The Commission on Constitutional Issues of the then National Assembly of the Republic of Slovenia adopted already in 1991 the following official interpretation of Article 14: "The notion of personal circumstances comprises, *inter alia*, also the 'same sex' orientation of an individual; thus, this Article already comprises persons of that orientation. Therefore, the Commission on Constitutional Issues did not explicitly mention any personal circumstance – which, as a rule, other conventional and constitutional texts do not enumerate – as the judicial and other legal protection thereof is thus already provided for. The introductory explanatory remarks to the Bill of the Law on Registered Partner Community, which is to regulate the rights of same-sex couples, contain the same explanation." *See also Salgueiro da Silvia Mouta v. Portugal*, where the European Court noted, when assessing the applicability of Article 14 of the European Convention on Human Rights to the case, that sexual orientation was "a concept which is undoubtedly covered by Article 14 of the Convention". Judgment of 21 December 1999, application number 33290/96.

[17] Case *Karner v. Austria*, judgment of 24 July 2003, application number 40016/98, paras. 34 – 43.

II. PARTICULAR PROBLEMS ARISING FROM THE TRANSITION PERIOD

Situation of the persons erased from the list of permanent reside nts

26. At the time of Slovenia's independence on 23 December 1990, approximately 200.000 people originating from other parts of the former Yugoslavia were permanently residing in Slovenia.[18] The laws on gaining independence contained special provisions which sought to regulate the position of these persons in the newly created State, by affording them the right to apply for Slovenian citizenship within six months.[19] Approximately 170.000 people obtained citizenship on the basis of the Act of Citizenship. Of the remaining 30.000, about 11.000 left Slovenia and 18.305 did not apply for citizenship within the prescribed period, for a number of reasons. Some were simply not aware of the procedure, others confused citizenship with ethnicity, while some did not at that time want to apply for citizenship, believing they would maintain the *status quo* as permanent residents.

27. Those who did not apply for citizenship, or whose application was rejected, were transferred from the register of permanent residents to the register of foreigners on 26 February 1992. The transfer was effected on an ex officio basis and the persons concerned were not informed about the erasure from the register of permanent residents or instructed about their new legal position. As a result, these persons, many of whom had been living in Slovenia for decades, became foreigners in Slovenia and lost the rights attached to a permanent residence status, many without being aware of it. From then on, their status was regulated by the Foreigners' Act.

28. The Association of the Erased and a number of other organisations with whom I met during the visit, described the dire situation that resulted from the loss of the permanent residence status and that is still going on for many of them. Many were deprived of their pensions, apartments, access to health care and other social rights. The personal documents of these persons, such as identity cards, passports and drivers' licences, were annulled. It has been reported that some people, albeit a very limited number, were deported as illegal aliens.[20]

29. Over the years, the question has been a subject of wide debate within the Government and the National Assembly, and the Constitutional Court has been actively seized in the matter, examining the constitutionality of the various legislative provisions. In a decision in 1999[21], the Constitutional Court declared that the Foreign Citizens Act was unconstitutional and violated the principles of rule of law, legal certainty and equality for failing to regulate the legal position of these persons in an adequate manner.

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[18] In the framework of the Socialist Federal Republic of Yugoslavia, citizens of other republics, in so far as Yugoslav citizens, regardless of the (republican) citizenship, enjoyed in Slovenia all rights if they were registered as permanently residing in Slovenia.

[19] The Act on Citizenship of Slovenia stated that citizens of other republics having permanent residence in the Republic of Slovenia on the day of the plebicite and who actually lived there could acquire Slovenian citizenship if they lodged the application with the administrative authority competent for internal affairs in the area of their permanent residence within six months of the coming into force of the said Act.

[20] The Constitutional Court noted in its opinion that "The Constitutional Court does not exclude the possibility that certain citizens of other Republics left the Republic of Slovenia also for fear of the pronouncement of the measure of the forcible return of a foreigner from the State …, although these measures have rarely been pronounced and the unregulated presence of citizens of other Republics has been tolerated as a rule".

[21] Decision U-I-284/94 of 4 February 1999, published in Official Gazette RS, No. 14/99.

30. In an attempt to remedy the situation, an Act on the Regulation of the Status of Citizens of Other Successor States to the Former SFRY in the Republic of Slovenia was adopted in 1999, which provided these persons the possibility of applying for the status of permanent resident. However, this legislation also received wide criticism since it did not remedy the situation of these persons retroactively, and since the time limit for filing an application for the issuance of a permit for permanent residence was extraordinarily short (three months). Consequently, the Constitutional Court declared in a Decision in April 2003, that this law was in many respects unconstitutional.[22] The Court therefore ordered that those who had already acquired permanent residence on the basis of the said law, be given immediate retroactive effect of that status as from 26 February 1992.[23] Moreover, it ordered that the legislator amend the law within six months to determine a new time limit for possible new applications for a permit of permanent residence.[24]

31. The early execution of the opinion of the Constitutional Court is essential for regulating the situation of these persons in an appropriate manner. The President of the National Assembly assured me that the law will be supplemented in the manner ordered by the Constitutional Court. The Minister of Interior informed me that the process for giving retroactive effect to the status of permanent residence has been started, and the legislative process towards providing a new time limit will be initiated without delay.

Problems relating to the denationalization of property

32. Before 1991 the large majority of urban housing units in Slovenia were municipal property, with municipal tenants holding a right of occupancy vis-à-vis their social housing units. In 1991 the new Law on housing (hereafter "SZ") granted tenants of municipal flats the right to purchase their rented accommodation at very low rates, far below the real market prices for such property.

33. At the same time, special legislation was adopted to denationalise the property that had been nationalised by the State at the end of the Second World War. This legislation granted owners of real estate that had been nationalised the right to restitution of their property. But in fact most of the flats subject to restitution to their pre-nationalisation owners were still occupied by their tenants rather than being vacant.

34. This situation has led to conflict between individuals with overlapping, and indeed contradictory rights under the new legislation. On the one hand, municipal tenants were given the right to buy up their flats, but on the other the former flat owners were entitled to recover

[22] Decision U-I-246/02 of 3 April 2003, Official Gazette RS, No. 36/2003.

[23] The Court imposed on the Ministry of Interior the obligation to issue as an official duty supplementary decisions establishing permanent residence status from 26 February 1992 onwards, to all those citizens of other Republics who were on 26 February 1992 removed from the register of permanent residents, and who have already acquired a permit for permanent residence.

[24] The time limit for filing an application for the issuance of a permit for permanent residence was extraordinarily short. The annulment means that the applications which have not yet been resolved may not be rejected for reason of being late, and that entitled persons may re-file those applications that were rejected for reasons of being late. Furthermore, all applications which are filed after the publication of this Decision in the Official Gazette, until the expiry of the possible newly prescribed time limit, must be considered as filed in time.

their previously nationalised properties, even if they were occupied. The law provided that tenants could remain in their flats, while at the same time the owners took over possession of the property with a number of obligations vis-à-vis the tenants, whom they had not themselves selected but who had been imposed on them *de facto*. In particular, the legislation attempted to protect the tenants by stipulating that the new owners had to retain the social character of the rent charged. In other words, they were not supposed to make any substantial profit from their property, nor could they terminate the leases without complying with a number of specific conditions.

35. This situation has led to a real problem, which some, including the Slovenian Ombudsman, consider as an infringement of the principle of equality vis-à-vis a specific group of citizens. Unlike the great majority of Slovenians, the former municipal tenants were unable to exercise their right to purchase their flats, while at the same time the flat owners could not really take possession of the properties either. According to various reports which I received during my visit, this has caused great dissatisfaction and prompted complaints from both categories of persons, who are anxious to resolve their immediate problems.

36. It is true that the Government and the legislature have not been overlooking this problem. For instance, the SZ has been amended on several occasions. In 1994 in particular, the legislature attempted to make good the omissions in existing legislation by adopting a large number of amendments to the SZ. The new Article 125 of the SZ recognised the problem and even set out three model solutions intended to safeguard the tenants' rights. Under the first model, tenants could repurchase from the owners flats which they occupied at rates below the normal market prices, with the State paying the difference to the owners in the form of bonds and securities. The second model stipulated that should the owner refuse to sell the flat the tenant could purchase a different flat, with compensation payable by the said owner. If the latter refused to pay this compensation, the municipality could re-let his/her apartment to a different tenant under a municipal decision binding upon the owner. The third model referred back to the possibility for tenants to exercise their right to purchase any available municipal property still to be privatised.

37. According to the representatives of the Tenants' Association, none of these models had ever functioned because the solutions proposed were unrealistic. Furthermore, the Constitutional Court had been quick to declare unconstitutional the provision entitling the municipality to re-let apartments to different tenants in the event of refusal by owners to pay compensation to a previous tenant who had purchased a different apartment, which had removed some of the pressure on owners to reach an agreement with their tenants.

38. Having listened to the tenants' representatives and discussed the situation with the Slovenian Ombudsman, who had been actively endeavouring to improve the situation, among other things by tabling a special report before Parliament on the problems facing tenants in denationalised apartments, I noted that the problem remained unabated and that no fair solution had been identified.

39. I consider that there can be neither winners nor losers in this situation, because both sides may be considered disadvantaged. On the one hand, it is impossible not to see the difficulty, indeed the hardship, of the situation in which the tenants of denationalised apartments have been placed. Apart from the fact that this is a one-off situation depriving them of the

advantages on offer to the vast majority of their fellow-citizens as part of the privatisation of municipal housing, these tenants have had to face a completely unprecedented situation in which their rights were completely unprotected and the whole of their live's achievements jeopardised. Not only had most of them lived for many years in their flats in good faith, but also for decades they had repaired and improved their dwellings, investing in them as if they were their own property. Many of these tenants are now elderly and are finding this situation hard to bear and even unjust: they live in constant fear of no longer being able to afford possible rent increases or other types of renewed pressure. At the same time, the authorities are unable to come up with an equitable solution.

40. Furthermore, the flat owners are also in a highly unenviable situation. Of course, the tenants' representatives pointed out during my interviews with them that they consider themselves underprivileged as compared with the obviously more privileged flat owners. It would, however, also be unfair in such a situation to set a weak party up against a strong one, an imaginary David against an equally imaginary Goliath. Those who have now become the "new owners" have also taken hard knocks during their lives, suffering the injustices of history. We must not forget that the fact of finally recovering their expropriated apartments is fair and cannot be contested as such. However, here again I note that the property rights restored to the owners in the instant case certainly cannot be considered perfect because they are far from constituting full rights. How could anyone be satisfied if, after years of expropriation, his or her property is affected by so many encumbrances that he or she cannot utilise it freely, as any landlord should be able to do?

41. It must therefore be concluded that the present situation satisfies neither side and that the problem must be settled as quickly as possible in order to put an end to the exasperation on both sides, among the tenants and the flat owners. It is equally clear that the State will have to find the solution because the parties are patently unable to reach agreement.

42. This is why I consider that the Government should begin by following the Slovenian Ombudsman's recommendations in his report on this problem. Consideration should also be given to the possibility of going even further and proposing a legislative amendment to settle the problems facing one side while also protecting the interests of the other.

43. In particular, I feel that any solution identified should be consensual, preceded by dialogue between the interested parties. This requires both sides to be fully aware of all the problems involved and the possible remedies. I would advocate introducing the mechanism provided for in Article 70 of the SZ, a tool which has apparently never been used, namely the "Councils for the Protection of Tenants' Rights". Establishing such bodies would be a major step towards initiating constructive dialogue in order to find a solution to this painful problem.

III. THE JUDICIAL SYSTEM AND THE PRISON SYSTEM

The length of judicial proceedings

44. During my visits I usually attach great importance to the functioning of the judicial system in the country in question. Effective human rights protection in any democratic society is obviously a matter for all State bodies, but the courts are responsible for ensuring the supervision of the observance of these rights and, where appropriate, imposing sanctions

where any infringements have taken place. But in my view, if we are to ascertain the real facts about how the judicial system functions we must not only read the reports and take note of statistics but also interview officials working in this field, in order to hear their direct evaluations of the problems and to discuss possible solutions with them.

45. During the visit I was anxious to form an impartial opinion by listening to both the main players in the judicial world, namely the members of the judiciary and the Bar, who are the persons most intimately acquainted with the strong and weak points of their national judicial system.

46. It should be noted that all those with whom I spoke stressed the major efforts made by the Slovenian authorities in order to improve the administration of justice in the country and to respond to criticisms levelled over the last few years by both international and domestic observers. They pointed out that one of the main problems facing the Slovenian judicial system is the excessive length of judicial proceedings. Moreover, it should be noted that the national authorities have been alerted to this problem on several occasions, *inter alia* by the national Ombudsman in a number of his reports.

47. A series of reforms have been launched to improve the situation, notable with respect to civil proceedings. I was also very pleased to hear from the Association of Slovenian Judges that thanks to several new measures the judicial profession was becoming more appealing and was now attracting more young applicants, which could eventually make up for the shortage of judges and help solve the problem of excessive length of proceedings.

48. Some difficulties do, however, remain. According to my interlocutors, proceedings are still excessively long and are even continuing to lengthen further still. Parties to litigation sometimes have to wait several years to obtain a trial date. This situation is far from acceptable. Slow justice is, in short, often tantamount to no justice.

49. I was also extremely interested in another problem which was mentioned during my interview with the President of the Bar Association of Slovenia and also in talks with members of the Bar Council. In fact, the excessive length of criminal proceedings is evidently due to the fact that under the current procedure, when a court of appeal decides to quash a first-instance decision the case must be sent back for retrial before the court of first instance, because courts of appeal have no jurisdiction to decide on the merits of individual cases. This specific procedural feature is largely responsible for protracting the proceedings, which could be considerably shortened if courts of appeal were competent to deal with the merits of criminal cases. Furthermore, it would appear that this solution has already been implemented in civil proceedings, which means that it could be extended to the other fields of law. In fact, the representatives of the judiciary I interviewed also advocated the latter course of action. All I can do is add my voice to all the others in support of adopting such a reform.

50. I heard another proposal during my talks with the representatives of the judiciary and the Bar. It has been noted that one means of expediting judicial mechanisms would be a drastic cut in the courts' workload. The idea of introducing a preliminary mediation procedure has received massive backing. This solution would consist in appointing independent mediators

(arbitrators), who would present the parties with a fair, judicially recognised solution. According to my interlocutors such a practice is already being tried out in such courts as the Ljubljana Regional Court. In my view this practice cannot but be encouraged.

The police

51. The work of the police is vital for the maintenance of public order. It would therefore be a mistake to underrate the role played by police institutions in any democratic society, because the right to security is an integral part of human rights. This is why police action should be exemplary and unsullied by any abuse of authority.

52. This is the view I put forward during my talks at the Ministry of the Interior, where I had an opportunity for long discussions with the Minister of the Interior, Dr Rado Bohinc, and the Deputy Director General of Police, Mr Andrej Anžic. Furthermore, my assistants were shown around the Foreigners' Reception Centre in Ljubljana by police officers.

53. I was very pleased to note that all the persons interviewed were well aware of the importance of the role played by the national police force and the need for energetic measures to increase the openness of police action and ensure its compliance with human rights.

54. At the same time, I cannot pass over in silence the worrying reports I received from NGO representatives. I heard a number of allegations that representatives of the law enforcement agencies had committed violent acts incompatible with the principles of human rights.

55. Most of the individuals I spoke to complained that official investigations into allegations of ill-treatment were biased, superficial and rushed. I would like to stress that I consider it vital to improve the effectiveness of the existing Complaints Boards responsible for investigating cases of alleged misconduct by police officers in the course of their duties.

56. According to our information these Boards have three members, namely one police officer appointed by his/her superiors, one representative of the police trade union and one NGO representative. Although such a membership seems fairly well balanced, it could hardly be called satisfactory because, according to the people we interviewed, all three Board members are selected and appointed by representatives of the Ministry of the Interior. Furthermore, the statistics provided by the authorities show that only a small percentage of the complaints received by the Board are declared well founded. According to the Deputy Director General of Police, out of a total of 1 222 complaints of police violence submitted in 2002, only 132, i.e. 15%, were declared well founded. And according to the NGO representatives we interviewed these figures are far from reflecting the real facts of the situation.

57. In view of the foregoing, it would be important for the Government to amend the rules on the appointment of Board members. The authorities would, in my view, do very well to accede to the proposals of a number of Slovenian NGOs and include independently appointed NGO representatives on these Boards. The appointment procedure could be defined jointly by the State and the NGOs, which would simultaneously enable them to intensify their co-operation.

58. Again, in addition to the efforts required from the authorities on the matter of processing complaints from individuals, it would also seem necessary to change the police officer's whole approach in dealing with members of the public. According to the many Slovenian NGO representatives we spoke to, some members of the police force should change their attitudes to become more respectful to the ordinary citizen, because some officers were reportedly continuing to use excessive violence in discharging their duties. Obviously such cases of violence are fairly rare, but no excessive violence can ever be tolerated from persons responsible for ensuring compliance with law and order. Police officers should be taught about attitudes of respect for human dignity throughout their vocational training.

59. In this connection it would be very useful to introduce new training programmes aimed at instilling in police officers an enhanced respect for human rights and to reinforce existing programmes still further. Such programmes should, to my mind, be included in the general training system. Co-operation in this field with the Council of Europe could be extended and reinforced.

60. I would also like to refer to the concerns that have been raised about the lack of a specific criminal offence of torture in Slovenian criminal law.[25] During my visit, the Ministry of Justice informed me that the question will be addressed in the context of the forthcoming reform of the Slovenian Criminal Code, and assured that the reform package will contain a draft definition of torture.

The prison system

61. During my assignments I try wherever possible to visit selected places of custody, including prisons, provisional detention premises in police stations and internment centres. I consider that close attention must be paid to respect for the human rights of the most vulnerable groups, which indubitably include individuals deprived of their freedom. I am therefore very grateful to the Slovenian authorities for their unstinting assistance in organising my visit to the Slovenian prison sector.

62. Since Slovenia ratified the European Convention for the Prevention of Torture, the CPT (the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment) has organised two visits to Slovenia, viz in 1995 and 2001. Both CPT reports were published, with the Government's agreement. The Slovenian authorities responded to the reports with a number of explanations on the criticisms levelled by the CPT and undertook to remedy the shortcomings noted.

63. Slovenia has three major prisons, in Ljubljana, Maribor and Dob. The Maribor prison was built in the 19th century and, according to my sources, presents the most serious problems. As a general rule, the most difficult problem in Slovenian prisons is overcrowding, and Maribor and Dob prisons are the worst in this respect. According to the authorities, a new prison should be opening in Koper in 2003, which will help ease crowding in the other three main prisons.

[25] For instance, the Conclusions and Observations of the UN Committee against Torture, Slovenia, 27 May 2003, CAT/C/CR/30/4.

64. In response to my request I was able to visit the Dob Prison, the largest in the country. During my visit I was received by Mr Dušan Valentincic, Director of the National Department for the Enforcement of Prison Sentences, and Mr Jože Podržaj, Director of Dob Prison, who I would like to thank for their warm welcome and excellent co-operation. I would also thank all the staff at the Dob centre whom I encountered for their helpfulness and openness.

65. As I pointed out during my visit, I noted the good relations maintained by the prison staff and the prisoners, as well as the efforts by staff to improve the situation in response to the CPT's recommendations.

66. At the same time, I think a number of problems do remain, and would call on the authorities to take early action to solve them. I would like to stress in particular that prisoners in Dob face very severe problems of overcrowding. Some cells measuring 60m² have in excess of ten occupants, which is far from complying with European standards.

67. Furthermore, some prisoners and NGO representatives informed us that there were far too few work stations available in prisons, and that provision of psychological care was insufficient.

68. I would like to urge the authorities to solve these problems and, in general, to continue to implement the CPT's recommendations with a view to securing a tangible improvement in the situation as regards prisons.

IV. THE SITUATION OF REFUGEES, ASYLUM-SEEKERS AND MIGRANTS

Visit to the Foreigners Centre of the Slovenian Police in Postojna

69. Following critical reports published in previous years by the European Committee for the Prevention of Torture (CPT) and the Ombudsman of Slovenia relating to the conditions at the Aliens Centre in Postojna, [26] a team from my office paid a visit to the Centre. Further to a restructuring of the aliens' reception system, the Centre is now intended for short-term stay of persons illegally in the country pending their deportation, or foreigners whose identity has not been established. The Centre includes a high security section (which is partly under reconstruction) for those who are considered to pose a risk of resisting deportation [27]. At the time of the visit, there were 25 persons in the Centre, the majority of whom where men.

70. The length of stay in the centre varies significantly, many stay only for a few days, but some for several months. According to the law, the maximum stay is six months, but it can be renewed for another six months. Most are deported to their countries of origin, a small number apply for asylum, and some are granted a residence permit, mainly persons originating from other countries of ex-Yugoslavia, who have family members in Slovenia. Those who apply for

[26] The visits were conducted during the year 2001. See *Report to the Slovenian Government on the visit to Slovenia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, 18 December 2002, Doc. CPT/Inf (2002) 36; and *The Seventh Annual Report of the Human Rights Ombudsman*, June 2002 (covering the year 2001).

[27] See Articles 53 – 55 of the Foreigners' Act.

asylum are transferred to a centre in Ljubljana intended for asylum seekers. Those for whom none of these options are available, mainly by reason of not acquiring the necessary documents from their embassies, have a possibility to apply for a permission to remain temporarily in Slovenia, and if such permission is given, move outside the Centre. A person who has been permitted to remain temporarily in the country, has the right to healthcare, the right to the basic requirements for survival, and the right to legal assistance – a provision that I welcome.

71. The Centre was renovated during autumn 2002, and - although the purpose of the visit was not to conduct a thorough investigation of the conditions - my team observed that many of the recommendations made by the CPT had been given effect. For instance, material conditions were of higher standard, activities were organised regularly, the personnel had been increased and information was provided in several languages about the reasons for the placement in the centre, about the appeal procedures available and about the house rules. [28]

72. Despite these improvements, the Centre continues to provide a carceral environment. The area is surrounded by high brick walls, windows are barred, and outdoor activities were practically limited to an inner yard surrounded by high walls, and covered with an asphalt floor. The Centre is located a remote area, a few kilometres from the centre of Postojna, on a compound of abandoned army premises. The residents are allowed to go to the court yard twice a day, but movement outside the centre is extremely restricted. According to the personnel, in practice only women, children and persons with disabilities are occasionally allowed to go outside the centre, while men have to stay at the Centre at all times.

73. A problem of a more general nature was identified during the visit, namely the fact that the legislation does not seem to provide for a speedy court review of the decisions on the placement of people in the Centre, or of ordering them under a stricter police surveillance within the Centre. Although the Centre for Foreigners is not described in the legislation as a prison or a detention centre, the conditions under which the residents are held, clearly amount to a deprivation of liberty within the meaning of Article 5 (1) (f) of the European Convention on Human Rights,[29] and consequently, the safeguards stipulated in Article 5 must be ensured.[30] Most importantly, everyone placed in the Centre must be afforded the right to take proceedings in which the lawfulness of the detention shall be decided speedily by a court, a required by Article 5 (4) of the Convention.

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[28] Also, in order to respect the privacy of the residents, shower cabins had been put in place instead of the previous open space, rooms had been repaired and repainted, books and magazines were available in several languages.

[29] Article 5 f of the Convention relating to the right to liberty and security defines as a deprivation of liberty, *inter alia*,: "the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition".

[30] While the Convention does not explain what constitutes a "deprivation of liberty" with the meaning of the Article, the caseload of the Court does give important guidance on the distinction between the deprivation of liberty and restrictions on freedom of movement stipulated in Article 2 of Protocol. The Court has stated that in order to determine whether someone has been deprived of his liberty within the meaning of Article 5, the starting point must be his concrete situation and account must be taken of a whole range of criteria such as the type, duration, effects and manner of implementation of the measure in question.

74. According to the Foreigners' Act, the decision on the placement is taken by the police and the person concerned may file a complaint with the Ministry of Interior against the decision, and thereafter, proceedings may be initiated at the Administrative Court and ultimately the Supreme Court of the Republic of Slovenia [31]. The Commissioner recalls in this respect that periods of 31 and 46 days taken to rule on the release of a person detained pending extradition under Article 5(1)(f) were considered too long by the European Court.[32] It is thus doubtful whether the procedure under Slovenian law, which requires an administrative complaint before the person can appeal to the administrative court,[33] complies with the requirement of a speedy court decision of the lawfulness of detention. There should also be a court review of the lawfulness of the decision at reasonable intervals.

75. I addressed this matter with several interlocutors during my visits, and the Minister of Interior assured me that the compatibility of the Law with the European Convention will be examined, and necessary measures taken.

Refugees and asylum-seekers

76. The Minister of the Interior informed me that the situation of the approximately two thousand persons from Bosnia and Herzegovina, who had been living in the country under a temporary protection status for almost ten years, was significantly improved in 2002 when the Law on Temporary Protection was amended allowing these persons to obtain permanent resident rights in Slovenia. This is indeed a praiseworthy development in view of finding a sustainable solution to the situation of these people. As of now, most of the persons concerned have acquired the status. [34]

77. It was reported to me that integration of recognised refugees remains inadequate. As per the 1999 Law on Asylum, the Government of Slovenia shall adopt an integration decree, specifying the rights and benefits afforded to recognised refugees as well as the related implementation procedures, but this work is yet to be concluded. I raised this issue with the Minister of Interior who informed that the work is ongoing and is expected to be finalised in the near future.

78. My attention was also drawn to the fact that the regulations relating to the rights of asylum seekers remain restrictive in the field of education and health care, which is a serious problem given the relatively lengthy asylum procedures. The right to education is limited to primary education, and health services are limited to emergency health care, with no provisions for persons in special need. I encourage the Government to proceed with the reform of these provisions, according to the recommendations put forward by the United Nations High Commissioner for Refugees.

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[31] The legal basis for this is provided for by Article 157 of the Constitution of the Republic of Slovenia and provisions of the 1997 Law on Administrative Dispute, which provides for judicial protection in an administrative dispute not only against decision by state authorities but also against acts by them.

[32] See *Bouamar v Belgium*, A 129, para. 63 (1988).

[33] If a person has to exhaust an administrative remedy before having recourse to a court, the period of time to be considered runs from the time that the administrative authority is seized of the case. See *Sanchez-Reisse v Switzerland*, A 107, para. 54 (1986).

[34] As of 9 October 2003, 1975 persons had acquired the status.

V. THE SITUATION OF CERTAIN VULNERABLE GROUPS

Trafficking in human beings

79. Slovenia is primarily a transit or destination country with regard to trafficking in human beings, but both NGOs and Government representatives confirmed that Slovenia is, to a lesser extent, also a country of origin. Most victims are women and girls from Ukraine, Moldova, Romania, Bulgaria and the Russian Federation trafficked for sexual exploitation in Western Europe or Slovenia.

80. I could observe that the authorities have recognised the existence of the problem, and are in the process of intensifying their endeavours for the prevention of trafficking. In 2002, the Government established a working group to address human trafficking and smuggling issues. The Minister of Interior stated that a comprehensive plan of action against trafficking is expected to be adopted in the near future, and that a process is under way to make the necessary changes to the legislation relating to the protection of victims and witnesses, and to include in the Criminal Code a definition of the crime of trafficking.[35] I strongly support the early adoption of such provisions, which should be supplemented by the provision of training to the relevant authorities and the allocation of funds needed for the assistance and protection of the victims.

Persons with disabilities – visit to a social institution in Lukavci

81. A team of my office paid a visit to a social institution for persons with disabilities in Lukavci, which hosts presently 284 adult residents with mental disabilities or mental disorders. The team was received by Ms Stanka Vozlic, the Director, Ms Metka Mocnik, Chief Nurse, and Ms Nada Balazic, Head of Personnel. I would like to express my gratitude for the excellent cooperation extended to my team during the visit.

82. The Director stated that during the past few years, a new approach had been adopted in the Institution, based on the empowerment of the residents in order to achieve a greater degree of personal independence and autonomy. Individual programmes have been developed according to the degree of the disability of the person. Many of the residents do some work at the institution, for instance by assisting with the institution's activities or cultivating plants. The objective is to enable as many residents as possible to start living outside the institution in a home like environment. Mr. Davor Dominkus of the Ministry of Labour, Family and Social Affairs, who accompanied the team during the visit, explained that this was a part of a national programme aimed at downsizing institutions that are too big and at adopting an individual approach to assisting persons with disabilities.

83. The new approach is indeed praiseworthy, and a lot has already been achieved in the Institution due to the dedication and professionalism of the personnel. The Director insisted however, that the implementation of a number of the measures was hampered by the lack of adequate resources. In this respect, I would like to call upon the authorities to allocate the

[35] Although at present there is no law specifically prohibiting trafficking, Slovenian criminal law contains provisions that can be used to penalise trafficking.

necessary resources enabling the implementation of these measures, which are in line with Article 15 of the Revised European Social Charter concerning the right of persons with disabilities to independence and social integration.

84. During the visit, the team raised concerns at recent reports by non-governmental organisations indicating that two men had been confined to cage beds in the institution.[36] The Director acknowledged that two men, who suffered from severe physical and mental disabilities, had indeed previously been held in cage beds in night time, but that practice had been discontinued in April 2003. For one of the men, the use of a railed bed had proved to be an alternative solution, and for the other man, a special space, attached to the room where he and others normally stayed, had been arranged for sleeping. Although the space was in fact an isolation room, I would like to commend the manner in which the personnel had arranged it. The floor was covered with thick mattresses, and there was a window and an ample open space between the walls and the ceiling, thus avoiding the feeling of a closed space. The space was painted in light blue colour and there were pictures on the wall. The room was closed with a low gate, which further helped to avoid the feeling of a closed space. It is to be underlined, however, that a person should not be kept isolated for prolonged periods of time, and I would therefore like to encourage further efforts towards finding a best possible solution ensuring the safety, well-being and dignity of the person concerned. I welcome the discontinuation of the use of cage beds, which has been defined by the Committee on the Prevention of Torture and Inhuman or degrading treatment as "unacceptable in modern psychiatry."

VI. SOCIAL AND LABOUR RIGHTS

85. Representatives of labour unions brought to my attention certain problems relating to social and labour rights, that I subsequently raised with the Minister of Labour, Family and Social Affairs. Thousands of persons, mainly women, have lost their jobs in the textile industry, and are now unable to find work, partly because of a reluctance of employers to hire elderly women. Long-term unemployment prevents these persons from accumulating an adequate pension, thus placing them at a severe risk of poverty due to the low level of old age pensions. In order to respect the right to an adequate protection against poverty and social exclusion[37] of the elderly, measures, such as offering retraining possibilities and introducing in the legislation a clear prohibition against discrimination based on age, should be taken. The labour unions also informed that several employers do not respect the minimum salary established by law, which is currently 450 per month euros and that there have been cases of non-payment of salaries, especially to young people. The possibility of seeking effective redress for such violations of labour laws, is negatively affected by the length of judicial proceedings, which according to the trade union representatives is at least two years. I was pleased to learn that the new Social Contract, signed in May 2003, introduces the possibility of using mediation in such situations. As the Minister noted, it is now important to promote this new possibility and to raise the awareness of it.

[36] For a more detailed account on this matter, see *Cage Beds – Inhuman and degrading treatment in four EU accession countries*, Mental Disability Advocacy Centre, 2003, pp. 48-51.

[37] Article 30 of the Revised Social Charter

CONCLUSIONS AND RECOMMENDATIONS

86. Since its accession to the Council of Europe in 1993, Slovenia has made commendable efforts in respect of human rights promotion and protection. It is, moreover, evident that the authorities remain committed to reaching the highest standards in areas where problems persist. In order to assist the Slovenian authorities in the pursuit of their goals, the Commissioner, in accordance with Article 8 of Resolution (99) 50, makes the following recommendations:

- Strengthen the regime of minority protection notably by reassessing the concepts of autochthonous and non-autochthonous minorities and by including groups of persons originating from other parts of the former Yugoslavia in the groups of people to whom the Framework Convention for the Protection of National Minorities is applicable;

- Take measures to ensure an effective implementation of the national programmes for the improvement of the situation of the Roma at the local level, and to ensure that all Roma children have access to education on par with other children;

- Step up efforts combating discrimination notably by strengthening anti-discrimination legislation, by ratifying Protocol 12 to the European Convention on Human Rights and by ensuring the full transposition of the EU equality directives into the legislation;

- Ensure that the situation of the persons erased from the list of permanent residents be regularised without delay in the manner prescribed by the Constitutional Court;

- Consider seriously the recommendations made by the Ombudsman towards finding a solution to the situation of tenants following the denationalisation of property;

- Take measures towards reducing the length of court proceedings by, inter alia, considering the possibility for the courts of appeal to examine criminal cases themselves without referring them back to courts of first instance, and by increasing the accessibility to mediation;

- Modify the composition of the complaints boards responsible for investigating cases of alleged misconduct by police officers, in order to ensure the impartiality of such boards;

- Ensure a speedy court involvement in the decisions relating to placement of persons in the centres for foreigners;

- Strengthen the integration of recognised refugees into the society, and afford adequate rights to asylum-seekers, notably in the field of health care and education;

- Step up efforts aimed at combating trafficking in human beings;

- Allocate sufficient resources for the ongoing reform of the institutions for persons with disabilities;

- Take measures to ensure equal access to employment for all, in particular the elderly, women and the Roma; strengthen the monitoring of implementation of labour laws, including those relating to minimum wages and offer swift legal redress to victims of irregularities.

APPENDIX

COMMENTS OF THE GOVERNMENT OF SLOVENIA ON THE REPORT

The Commissioner for Human Rights decided to append to his report the following comments of the Governement of Slovenia, submitted to him on 24 March 2004.

I MINORITY PROTECTION AND NON-DISCRIMINATION

Notion "autochthonous"

The term "autochthonous" is commonly used in Slovenian legal order. Despite possible objections concerning this notion and its clarity it does exist and is used in Slovenian legal order. The term is used in Articles 5 and 64 of the Constitution of the Republic of Slovenia, however, it is not clearly defined. It needs to be pointed out that the term is not defined in international law either. Usually, there is mention of autochthonous character or historical settlement of a community if such community has lived in an area for at least two generations. In the cases of the Italian and Hungarian national communities in Slovenia ethnically mixed areas are clearly defined as those territories in which members of the respective national communities have been living for several centuries, divided from their home country only by the borders. These national communities have inhabited their respective areas for ages, but due to historic and political circumstances have remained outside their own country.

a) Situation of the Roma

The Roma do not have the status of a national community. They are considered as an ethnic community or minority with specific ethnic characteristics (proper language, culture and other ethnic attributes).

Historical sources refer to the Roma in the territory of the present Slovenia as early as 15th century, while from the 17th century data on the Roma have become more frequent, e.g. appearing also in registers. According to research, the Roma have settled the Slovenian territory from three directions: the ancestors of the Roma living in the Prekmurje region have come from the Hungarian territory, the Roma in Dolenjska came from Croatia, whereas the Gorenjska region has been settled by smaller groups of the Sinti, coming from today's Austria. Despite the fact that at first these populations had a nomadic way of life and often changed their settlements, there are nowadays constant Roma settlements in the regions of Prekmurje, Dolenjska, Posavje and partly Gorenjska. In these areas the Roma are considered as traditional settlers that have been occupying their respective settlements more or less permanently up to the present.

In its decision of 22 March 2001 the Constitutional Court of the Republic of Slovenia, reviewing constitutionality and legality of the statute of the municipality of Novo mesto, among others established that the Local Government Act (Official Gazette RS 70/2000) did not comply with the Constitution, failing to define criteria and conditions for effective implementation of Article 39, Paragraph 5 of the mentioned Act, which stipulates a special Roma councillor in the local government system. Article 39, Paragraph 5 of the Local Government Act (Official Gazette RS 72/93) stipulates as follows: "In the areas with autochthonous Roma population, the Roma shall have at least one representative in the municipal council." Even before the adoption of the mentioned Act in 2002 and before the decision on the municipalities where the Roma should have a councillor, the municipality of Murska Sobota had elected Romany councillors in two mandates (1994 and 1998).

Article 101(a) of the Act Amending the Local Government Act (Official Gazette RS 51/2002) stipulates as follows: "The municipalities of Beltinci, Cankova, Crenšovci, Crnomelj, Dobrovnik, Grosuplje, Kocevje, Krško, Kuzma, Lendava, Metlika, Murska Sobota, Novo mesto, Puconci, Rogašovci, Semic, Šentjernej, Tišina, Trebnje and Turnišce shall be obliged to ensure the right of the Romany community living in their respective municipalities to one representative in the municipal council before the ordinary elections in 2002." To ensure the effective implementation of the Act, the legislator decided to enumerate 20 municipalities, for which it established on the relevant legal basis to fulfil the set conditions and criteria (including the so-called autochthonous status, mentioned in Article 39, Paragraph 5) and which were enumerated already in the 2001 decision of the Constitutional Court.

There is an ongoing debate in Slovenia on the definition of areas historically and/or traditionally settled by the Roma (autochthonous communities). Research is being carried out that will, *inter alia*, deal in more detail with the notion "autochthonous". However, one has to underline that the existing definition of the term has prevailed for the moment.

The regulation of Roma legal status began in 1989 by constitutional amendments with which a decision was adopted to regulate Roma legal status by law. Article 65 of the Constitution of the Republic of Slovenia represents the legal basis, stipulating as follows: "The status and special rights of the Romany community living in Slovenia shall be regulated by law."[38] This provision is the legal basis for the protective measures as well as an indication that due to their specific characteristics the status of the Romany community cannot be equivalent to that of the Italian and Hungarian national communities in the Republic of Slovenia.[39] The provision in Article 65 of the Constitution contains the mandate for the legislator to ensure by law not only the general rights, applicable to any person, but also special rights for the Romany community living in Slovenia, as a particular ethnic community. Thus the Constitution ensures special (additional) protection, in legal theory also called "positive discrimination" or "positive protection", meaning that in regulating a particular status and special rights of the Romany community the legislator is not bound by the principle of equality of human rights and fundamental freedoms, which prohibits any discrimination based

[38] Constitution of the Republic of Slovenia. Ljubljana, Official Gazette RS, 2002, p. 30.

[39] Information on Roma status in the Republic of Slovenia, Reporter of the National Assembly, No 18, 1995.

on national origin, race or other circumstances, as defined in Article 14 Paragraph 1 of the Constitution.[40] In the Constitution of the Republic of Slovenia special rights of the Romany community are mentioned in the chapter on human rights and fundamental freedoms, which, however, does not mean that special rights as stipulated by specific laws are constitutional rights. Special rights of the Romany community are protected under constitutional law in the same way as all other rights set by law.

When the new Constitution was drafted, different questions occurred concerning the regulation of the special protection of the Romany community, particularly in comparison with the constitutional protection enjoyed by the Italian and Hungarian national communities. A special "Roma act" was proposed on the basis of the position that the Romany community needs special regulation because of its specific ethnic features. This act should comprehensively regulate the situation and special rights of this community. The position prevailed, however, that the situation and special rights of the Romany community should be regulated in sector-specific laws as is also the case with the Hungarian and Italian national communities.

In 1995 the Government of the Republic of Slovenia adopted a position that it would be reasonable to regulate the protection of the Romany community by sector-specific laws. Article 65 of the Constitution is thus implemented through sector-specific laws, and the protection of the Romany community has to date been incorporated in nine (9) acts:

1. Local Government Act (Official Gazette RS, no. 72/93 … 51/02)
2. Act Amending the Local Elections Act (Official Gazette RS, no. 51/2002)
3. Voting Rights Register Act (Official Gazette RS, no. 52/2002)
4. Organisation and Financing of Education and Training Act (Official Gazette RS, no. 14/03)
5. Preschool Institutions Act (Official Gazette RS, no. 12/96 … 44/00)
6. Elementary School Act (Official Gazette RS, no. 12/96 … 59/2001)
7. Media Act (Official Gazette RS, no. 35/2001)
8. Librarianship Act (Official Gazette RS, no. 87/2001)
9. Exercising of Public Interest in Culture Act (Official Gazette RS, no. 96/2002).

Cultural activities of the Roma

The programmes of cultural activities of the Roma, financed by the Ministry of Culture, are very diverse and also include cultural activities of non-autochthonous Roma. The public call of the Ministry of Culture for the registration of projects in no way distinguishes between projects of autochthonous and non-autochthonous Roma.

Education of the Roma

The majority of Romany children that attend kindergartens are integrated into regular groups. On average 8 classes are formed every year which are attended only by Romany children.

[40] Cf. L. Šturm, Commentary on the Constitution of the Republic of Slovenia, Faculty of Postgraduate National and European Studies, Ljubljana 2002.

Romany children are enrolled in kindergartens that are in the vicinity of their settlement or in the settlement itself. If kindergartens are remote, transport is organised during which preschool children are constantly accompanied by an expert employee of the kindergarten or, in some cases, a child of a higher grade of elementary school. In some cases children are brought to kindergarten or school by parents.

A Romany class can be set up in a kindergarten if there are at least 5 children to attend it. In classes of Romany children there is also a more favourable relation between the number of children per an expert employee in the class in comparison to the regular kindergarten classes (1 expert worker per 4 children in the first-age group and 1 expert worker per 7 children in the second-age group).

The basic objective of the Ministry of Education, Science and Sport is to ensure that as many Romany children as possible get enrolled in kindergartens and integrated in mixed groups. The ultimate aim of this process is the integration of Romany children in preschool education at least two years before they start attending elementary school, i.e. when they are four years of age at the latest. The purpose of the inclusion in kindergartens is primarily the teaching of the language and socialisation, which provides experiences and patterns that make the attendance of the elementary school easier for a child.

Elementary school classes which are attended by Romany children only have recently been set up exceptionally. The tendency to integrate Romany children in regular classes has prevailed in the majority of elementary schools. This method of integration of Romany students together with occasional work in smaller groups has yielded good results in the recent years and the number of Romany children that conclude their education in higher grades or even continue their education after they finish elementary school increases. The Ministry of Education, Science and Sport therefore decided to change norms and standards and to introduce integration of Romany children in regular classes in all elementary schools. In accordance with the Rules Amending the Decree on Norms and Standards and Elements for the Classification of Posts Providing the Basis for the Organisation and Financing of the Programme of the Nine-Year Elementary School with the Budgetary Funds (Official Gazette RS, no. 82/03), the norm for setting up a class with at least three Romany children is 21 children in the 2003/04 school year. The new rules do no longer provide for the setting up of classes of Romany children.

A special problem is also the Romany language. The Roma cannot use their language in communication with administrative bodies because the Romany language has not yet been codified and we can therefore refer only to Romany dialects. Preschool teachers and teachers do not have a command of the Romany language and there are almost no educated Romany personnel. Projects are underway which aim at the codification of the Romany language.

The competent ministry guarantees additional pedagogic hours to elementary schools with Romany children to enable them to provide instruction in smaller groups outside of regular classes. Schools attended by Romany students are given additional number of reimbursements for school meals. The ministry also allocates to elementary schools approximately 5 euros monthly per a student for co-financing teaching material and covering some of expenses incurred by activities and excursions. Schools provide textbooks for Romany children thr ough textbook funds. The ministry also offers scholarships to all Romany students that would like to attend pedagogic studies.

Despite the above measures, a number of questions have remained unresolved, i.e. how to ensure the real integration of children, decrease prejudices of non-Romany (as well as Romany) population, increase the number of Romany students and apprentices who finish secondary education or university studies, provide appropriate preschool and school personnel from the Romany population, and the issue of the Romany language.

New requirements have also resulted from the change in the school system. The Ministry of Education, Science and Sport therefore set up a special working group in December 2002 responsible for the formulation of a strategy for integrating the Roma in education. These are the long-term tasks of the working group:

- assessment of the situation,
- preparation of draft measures for a more efficient integration of the Roma in education from preschool to adult education,
- drafting of positions for elective subject or elective themes on Romany culture and language,
- drafting of proposals for education of teachers,
- drafting of proposals for establishing ties with parents,
- drafting of proposals for involvement of Romany children in extracurricular activities,
- establishment of ties with study groups,
- establishment of ties with the Romany community, and
- other tasks.

The working group is composed of experts in the fields ranging from the preschool to adult education and representatives of the Ministry of Education, Science and Sport, Roma Association and the National Education Institute. The working group formulated a strategic document in 2003, which is to be adopted by the expert council as the highest expert body in the area of education. The document is being drafted in cooperation with the Romany community. It deals with all the above issues and will provide the basis for an action plan for further measures relating to education of the Roma.

Participation of the Roma in the decision-making process

As regards the political participation of members of the Romany community, the Grosuplje Municipality is the only municipality that does not comply with the decision of the Constitutional Court of the Republic of Slovenia. The Romany community has special councillors in municipal councils of 19 municipalities. It is expected that the complication relating to the Romany councillor in the Grosuplje Municipality will be settled when the procedure of amending the Local Government Act is completed.

It is evident from the report that the Commissioner for Human Rights of the Council of Europe is in favour of the participation of the Roma in the National Assembly of the Republic of Slovenia (probably by instituting a parliamentary seat for a member of the Romany community). The Commissioner refers to a similar regulation applying to the Italian and Hungarian national communities (2 deputies in the National Assembly of the Republic of Slovenia – Article 64, Paragraph 3, and Article 80, Paragraph 3 of the Constitution of the Republic of Slovenia). The Romany community does not have the status of a national

community or a minority in Slovenia. This is a special ethnic group with special ethnic features, who cannot be equated with the Italian or Hungarian national communities in the Republic of Slovenia. It should also be mentioned in this regard that the institute of two deputies in the National Assembly coming from the Italian and Hungarian national communities is stipulated by the Constitution of the Republic of Slovenia and by other laws and has no "manoeuvring room" with regard to Article 65 of the Constitution of the Republic of Slovenia, i.e. it cannot be changed so as to provide for additional place for a member of the Romany community in the National Assembly of the Republic of Slovenia.

b) Persons originating from other parts of the former SFRY

Ethnic groups of persons with origin in other parts of the former SFRY are *de facto* minorities in Slovenia, but are not recognised as such and do not enjoy any minority protection. In the Republic of Slovenia the minority rights are not granted on the basis of the number of persons belonging to an ethnic community.

However, Article 61 of the Constitution of the Republic of Slovenia stipulates that everyone, i.e. also communities of citizens of the former Yugoslav republics, 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 and script. The Constitution grants special rights for the protection of their specific features to all linguistic, ethnic, religious and other groups of population, and it guarantees them protection from any forms of discrimination. There are also numerous other laws that provide various forms of the support for activities of "non-Slovenian" – numerical minority – population groups.

"New minorities" do not enjoy the same rights as the autochthonous national communities. Their rights are furthermore not regulated by the Framework Convention for the Protection of National Minorities, but there are other international instruments that regulate them. Several activities are underway that will further improve the situation of all minorities in the Republic of Slovenia.

The Exercising of the Public Interest in Culture Act (2002) and the Librarianship Act (2001) have already created normative conditions for integration of the above minority groups and their members into cultural life in Slovenia. The Ministry of Culture has devoted special care to these ethnic communities ever since 1992, when it introduced a special programme intended for them, and has for 10 years financed their programmes aimed at the preservation of special cultural identities. The Ministry of Culture has taken normative, organisational and financial measures aimed to achieve increasing democracy in cultural policy towards minorities and ethnic communities. The ministry has also created conditions for equal opportunities and participation in cultural life of all people regardless of their cultural identity. In taking measures for the preservation of cultural diversity the ministry has started to take into account that the cultural identity is linked not only to a collective (national communities) but also to people as individuals. In this way, the human rights concept is implemented in practice.

Special ethnic features, differences, culture and language are also developed within associations of "members of nations from the former common state of Yugoslavia". This process of cultural pluralism is a conjunctive process facilitating the participation and self-government of ethnic communities.

Nationals of the other republics from the former common state of Yugoslavia can receive television programmes in their languages transmitted through a cable TV system offered by various cable operators. They also have the opportunity to learn their mother tongue and culture in accordance with all applicable international provisions and the Constitution of the Republic of Slovenia.

The Ministry of Culture has to date organised numerous meetings with representatives of these communities (some minutes are also published on the Internet). The ministry has furthermore constantly assisted these communities and counselled them about opportunities for obtaining funds and integrating in the area of culture in accordance with law. This is also evident form the published Principles, Objectives and Criteria of the Minority Cultural Policy.

A comprehensive survey entitled "Situation and Status of Members of Nations from the Former Yugoslavia in the Republic of Slovenia" is underway. This survey will provide sound basis for further deciding on this issue. The aim of the survey is to establish the situation and status of Albanians, Bosnians, Montenegrins, Croats, Macedonians and Serbs who live in Slovenia and to compile appropriate empiric material through field work and other survey activities. The survey is also to find concrete possible ways of improving situation in this field, and to establish whether this is feasible under the present constitutional arrangement and Article 61 of the Constitution of the Republic of Slovenia.

Education

Until independence only one school in Slovenia, i.e. the Prežihov Voranc Elementary School in Ljubljana, offered elementary school programme in the Serbo-Croat language of instruction in accordance with the set curricula, in addition to the regular elementary school programme. Those classes were attended by students whose parents had to move around Yugoslavia because of their profession (mostly military staff). After independence the Ljubljana Centre Municipality as the founder and the Ministry of Education and Sport decided to maintain the classes with the Serbo-Croat language of instruction until the conclusion of the programme, while new students could no longer enrol for these classes. The reason for such a decision was mostly the fact that the majority of these children with permanent residence in Slovenia acquired Slovenian citizenship and changed the place of their residence, and the immigration from the republics of the former SFRY stopped. However, since it was desired that the right to the conclusion of elementary education of those students that had already been enrolled in the programme with the Serbo-Croat language of instruction be fulfilled, the decision was taken that the school should carry out the programme until all the enrolled students concluded the eight grade, i.e. the elementary education. On average 500 to 600 students had been enrolled in these classes prior to independence. In the 1989/90 school year there were 21 classes with the Serbo-Croat language of instruction at the school, while this number started to decrease in the following year, and there were only 15 such classes in the 1992/93 school year. In the school year 1998/99 there was only one class of the eighth grade with the Serbo-Croat language of instruction, and no such classes existed anymore in the following year.

Persons originating from other republics of the former SFRY have the possibility to learn their mother tongue in accordance with the EU directive and recommendations. This possibility is also defined in national legislation and in bilateral agreements or interministerial protocols with the states of origin of these persons. The instruction of mother tongue is, as is also customary in other European countries, provided in cooperation with the state of origin. The granting of this opportunity thus also depends on the willingness of the state of origin to cooperate and on the willingness of individuals to attend such classes. Slovenia has always responded to such initiatives according to interest expressed in each school year. For instance, the instruction of Macedonian was organised this year, and instruction of Croat and Albanian was also organised in the past years. Slovenia will continue to provide language instruction for members of ethnic communities, provided that our offers receive positive response.

Persons from other parts of the former Yugoslavia are also given the option of instruction of their mother tongue in elective subjects in the elementary school. Croat has already been taught in certain schools, and the curricula including the elective subject of the Serbian language is in preparation.

c) Other issues relating to non-discrimination

Article 14 of the Constitution of the Republic of Slovenia only seemingly fails to provide protection from discrimination on the grounds of sexual orientation. The issue of sexual orientation was taken into account already by the Constitutional Commission when it was drafting the applicable Constitution of the Republic of Slovenia in 1991. In relating to Article 14 it then provided an official explanation that by the use of the term "any other personal circumstance" in Paragraph 1 this Article also protects against discrimination on the grounds of sexual orientation. The Constitutional Commission of the then Assembly of the Republic of Slovenia, chaired by Dr France Bucar, officially explained Article 14 of the Constitution in 1991[41], "One of the exemplarily listed personal circumstances of Article 14 also includes, for instance, "same-sex" orientation of an individual, and persons with such orientation are thus already covered by the provision of this Article. The Constitutional Commission has not explicitly mentioned any personal circumstances in this Article, which are, as a rule, neither listed in texts of conventions and constitutions, since their judicial or other legal protection is guaranteed anyway."

II. PARTICULAR PROBLEMS ARISING FROM THE TRANSITION PERIOD

Denationalisation of property

With reference to the issue of tenants of denationalised flats the Constitutional Court reviewed constitutionality of the provisions of the Housing Act, Denationalisation Act and the relating provisions of the Administrative Disputes Act on 25 September 2003, at the initiative of tenants of denationalised flats and their association. The Constitutional Court decided by order that the challenged provisions were not in contradiction with the provisions of the

[41] Draft Constitution of the Republic of Slovenia –ESA 58, Reporter, Assembly of the Republic of Slovenia, volume XVII, no. 30, 12 December 1991, p. 13

Constitution of the Republic of Slovenia or with the provisions of the European Convention on Human Rights (Article 8, Article 1 of the Protocol no. 1). In a fairly extensive explanation of its decision, the Court referred to both the established case law of the Constitutional Court of the Republic of Slovenia and case law of the European Court for Human Rights (e.g. *James and Others v. the United Kingdom*, Eur. Court H.R., 21 February 1986, Series A98).

The Constitution of the Republic of Slovenia guarantees in Chapter II – Human Rights and Fundamental Freedoms, Article 33 the rights to private property and inheritance. The Constitutional Court of the Republic of Slovenia assessed that the entitlements granted by the Denationalisation Act to the beneficiaries were protected under constitutional law by Article 33 of the Constitution of the Republic of Slovenia. These entitlements are furthermore protected under Article 1 of the Protocol to the Convention for the Protection of Human Rights. When assessing the compliance of the interference in the constitutional right to private property, the Constitutional Court applied strictly constitutional review according to the relativity test and recognized the protection of some anticipated rights to persons entitled to denationalised property.

With regard to this collision of rights, i.e. of the right to purchase the flat and the right of a person entitled to denationalised property, the Constitutional Court of the Republic of Slovenia adopted the decision that the right established in law should be recognized and that the stronger right, i.e. right to property, has a priority.

However, taking into account the conflict of interests between owners of the flats and tenants of denationalised flats, former holders of the occupancy right, the Republic of Slovenia incorporated in the new Housing Act considerable material incentives, in accordance with the assessment made by the legislator and the material possibilities. Following the concluded privatisation of flats, individual provisions of the new Housing Act serve as a legal basis for alleviating – within the financial capacities of the Republic of Slovenia – the situation with which tenants of denationalised flats are confronted, if not resolving it.
When formulating new political decisions Slovenia examined, in accordance with applicable regulations, positions of interested groups, the outcomes of the debates conducted by interested public, and the opinion of the Human Rights Ombudsman and taken them into account to the greatest extent possible.

Information about the resolving of the "erased" persons issue

Citizens of successor states to the SFRY who had been permanent residents in the Republic of Slovenia prior to its independence and did not apply for citizenship under Article 40 of the Citizenship Act had to regulate their status as foreigners according to legislation applicable. In 1999, the Constitutional Court established that the Aliens Act governing the acquisition of the status of a foreigner did not comply with the Constitution of the Republic of Slovenia. The Constitutional Court, therefore, instructed the legislator to remedy this unconstitutionality and adopt a new law.

A special act – Act Regulating the Legal Status of Citizens of the Former SFRY Living in the Republic of Slovenia – was adopted in July 1999, which provided for the obtaining of permanent residence permits by:

- those who had actually lived in Slovenia as permanent residents since the plebiscite in 1990; and,
- those who had resided without interruption in the Republic of Slovenia since 25 June 1991, even though they only had temporary residence or they had not been registered in Slovenia as permanent or temporary residents.

Applicants applying under this Act obtained permanent residence permits in the Republic of Slovenia only with prospective effect.

In 2002, the provisions of the Act Regulating the Legal Status of Citizens of the Former SFRY Living in the Republic of Slovenia were subject to a constitutional review by the Constitutional Court of the Republic of Slovenia, since the Act did not provide for the retrospective effect of the permanent residence permits issued, i.e. as of 26 February 1992.

On 3 April 2003, the Constitutional Court established that the Act Regulating the Legal Status of Citizens of the Former SFRY Living in the Republic of Slovenia was contrary to the Constitution and instructed the legislator to adopt a law that would remedy the Act's established non-compliance with the Constitution. It also detailed the Ministry of the Interior to issue supplementary decisions relating to permanent residence to those persons who were, on 25 February 1992, erased from the Register of Permanent Residents. In view of the above decision, the Ministry of the Interior and the Government of the Republic of Slovenia, as proposed, submitted two new draft laws to the legislative procedure, i.e. a *law on the enforcement of Item 8 of the Constitutional Court Decision No. U-I-246/02-28 and the law on the permanent residence in the Republic of Slovenia of citizens of other Successor States to the former SFRY who, on 23 December 1990 and 25 February 1992, had registered permanent residence in the Republic of Slovenia.*

The Ministry of the Interior invited a wide circle of legal experts in the field of constitutional and administrative law to be involved in the drawing up of the draft law on the enforcement of Item 8 of the Constitutional Court Decision No. U-I-246/02-28. Almost all agreed that the decisions of the Constitutional Court of the Republic of Slovenia could only be enforced within the scope of the law. The Government of the Republic of Slovenia and the Ministry of the Interior established that in compliance with Article 153, paragraph 4, of the Constitution of the Republic of Slovenia individual administrative acts may only be issued on the basis of a law or a regulation adopted pursuant to law. On 24 November 2003, the National Assembly adopted the law on the enforcement of Item 8 of the Constitutional Court Decision No. U-I-246/02-28 and it relates to the category of persons, which is not disputable from the point of view of their residence in the Republic of Slovenia. The law has not yet entered into force, since a referendum initiative has been submitted against it. The referendum should be held on 4 April 2004 on the basis of the Decree on a Referendum.

The decision of the Constitutional Court of the Republic of Slovenia of April 2003 does not exclude the possibility of settling this issue by law. In its formal decision of 22 December 2003 dismissing the demand of a group of deputies for a constitutional review of a subsequent legislative referendum on the enforcement of Item 8 of the Constitutional Court Decision No. U-I-246/02-28 - the Constitutional Court took the stand that the decision of 3 April 2003 could be considered as a legal basis for issuing decisions on permanent residence. Therefore, the Ministry of the Interior, taking into account the binding character of Constitutional Court

decisions, commenced issuing decisions to those persons entitled to permanent residence to whom the law (which, however, cannot enter into force due to the referendum initiative) should relate.

The Ministry of the Interior also submitted to the Government of the Republic of Slovenia for adoption the law on permanent residence of citizens of the former SFRY in the Republic of Slovenia who, on 23 December 1990 and 25 February 1992, had registered permanent residence in the Republic of Slovenia. This law should settle all issues resulting from the Constitutional Court decision of 3 April 2003. It defined, *inter alia*, category of those entitled to permanent residence in the Republic of Slovenia, the effect of administrative acts issued since 25 February 1992, as well as the criteria for factually residing in the Republic of Slovenia, which the Ministry was bound to take into account. The proposed law again stipulates the deadline by which applications for issuing a permanent residence permit may be filed by all those who did not avail themselves of this opportunity in 1999 on the basis of the Act Regulating the Legal Status of Citizens of the Former SFRY Living in the Republic of Slovenia. At the same time, the law defines the conditions and procedure for issuing administrative decisions establishing the permanent residence of persons in the Republic of Slovenia and the grounds required because of the standards of protection of personal data and the establishing of relevant records. This law was in its second reading in the National Assembly on 30 January 2004. A demand for calling a preliminary legislative referendum was, however, submitted immediately afterwards. The National Assembly submitted the demand to the Constitutional Court for consideration. The Court ruled on 26 February 2004 that six out of eight indents of the referendum question were contrary to the Constitution.

III. THE JUDICIAL SYSTEM AND THE PRISON SYSTEM

a) The Length of Judicial Proceedings

A project of eliminating judicial backlogs (in charge of which is the Supreme Court of the Republic of Slovenia) has been underway since 2001 and 2002, when legislation was appropriately amended (Judicial Service Act). On 23 April 2002 the Government and the Supreme Court of the Republic of Slovenia published an analysis of judicial backlogs in Slovenia (Judicial Backlogs in the Republic of Slovenia: Analysis of the reasons and proposals for their reduction and elimination). As regards the claim about the alleged recent increase in judicial backlogs in the Republic of Slovenia it has to be stated that such a claim is most probably a result of a changed statistical monitoring of execution procedures (enforcement of judgements in civil matters). More precisely this refers to when a case submitted to (private) enforcement officers is considered completed.

With reference to the number of judges, it has to be stressed that the Ministry of Justice takes care that the procedures for the appointment of new judges are completed as soon as objectively possible.

The report states that judicial backlogs are still considerable and even increasing. In this respect we would like to emphasise that a distinction should be made between judicial backlogs, defined in the Court Rules, and pending cases. Furthermore, statistics for the first half of 2003 show that on average 13.7 per cent more cases of major importance, i.e. cases

tried directly by judges, were resolved than received in the half year. This proves that courts not only manage to settle the new load of cases of major importance but also reduce the number of pending cases. This trend has been noted in the last statistical returns.

The elimination of judicial backlogs has also been the aim of the amendments to the Judicial Service Act adopted in July 2002 and providing for:

- the constant number of judges, particularly at courts of lower instance;
- greater mobility in the sense of the existing and new forms of transfers;
- the setting of appropriate criteria for defining the expected scope of work in accordance with the experience in meeting criteria applicable so far;
- introduction of more effective service control and greater disciplinary responsibility.

The number of all pending cases did indeed increase by 0.5 per cent. The greatest increase in pending cases, i.e. by 12.4 per cent, has been registered with enforcement-related cases. This increase, however, is a consequence of the change in the display of pending cases. Certain cases that were considered solved according to the previous system are now still considered pending.

It is evident from reports of enforcement officers about the cases submitted to them that enforcement officers already receive some current cases at certain courts. The data provided for the next statistical period will thus demonstrate much more realistically the number of pending enforcement-related cases.

The report contains incorrect statements about the competence of the court of second instance (court of appeal) – which, of course, has jurisdiction for deciding on, and also for knowing, the merits of an individual case. Cases must be sent back to the court of first instance to establish the factual situation and to take evidence, and this cannot be the main reason for judicial backlogs. The taking of evidence at the court of second instance takes its time too – the trial still needs to be conducted, witnesses and experts examined, etc.

b) Police

<u>The composition of Complaints Boards responsible for investigating cases of alleged misconduct by police officers in the course of their duties</u>

The system described in the report has already been changed. Article 28, which defines the method of the investigation of complaints, has been amended and now stipulates that complaints must be handled in two stages. In the first stage, all facts concerning the filed complaint must be comprehensively examined by the head of the police organisation unit, most frequently the commander of the police station, who will carry out the so-called reconciliation procedure. This procedure consists of the talk with the complainant during which he/she is provided with information about the established facts and the powers of the police. The complainant can then agree with what he/she was told and the complaint procedure is concluded by the signing of the minutes. If the complainant disagrees, however, the complaint is immediately assigned to the ministry. This is also the case when the complaint refers to a suspicion that a police officer committed a criminal offence which is prosecuted *ex officio*. As was the case thus far, the complaint will be dealt with by a senate of

three members headed by minister's plenipotentiary. The other two members of the senate will be representatives of the public selected by civil society organisations, expert public, NGOs and local community. The senate will decide on complaints by a majority vote.

The complaint procedure will be precisely defined by a regulation act or rules on the dealing with complaints, which is already in the final stage of adoption. Representatives of NGOs have also taken part in the formulation of the rules.

Police education programmes

Themes of the protection of and respect for human rights are incorporated in several education programmes for police officers. In general, these programmes are:

1. Further education programme for police officers – basic programme, and
2. Education and further education programmes for police officers.

The basic programme for police officers includes the following subjects:

- Introduction to jurisprudence
- Penal legislation
- Police powers
- Information technology
- Traffic safety
- Police ethics
- Psychology and communication skills

In the domain of the protection of and respect for human dignity and rights, the above subjects lay special emphasis on:

- The basic features of the rule of law and the functioning of penal legislation in the society;
- Penal defence of human rights and freedoms;
- Protection of personal data and use of data in police records according to the Police Act and the Personal Data Protection Act;
- Recognition of personal characteristics, respect for individuality, tolerance of differences, humane treatment of offenders.

We are well aware that this education is even more important for police officers who already perform such a function. The following education seminars are therefore intended for this group:

- Seminar on criminology,
- Education about the exercise of police powers,
- Programme for heads of police districts,
- Seminar on traffic issues,
- Education on exercising border control,
- Education for international peace operations under the UN.

Great attention is also devoted to police education in the respect for human rights and dignity in further education and general programmes, such as "Communication and Conflict Action for Police Officers" and "Conflict Action for Police Officers". At the end of the programme police officers:

- understand their conduct and conduct of others in mutual relations;
- are capable of confronting a conflict; and
- are capable of acting correctly in a certain situation, they improve their communication and efficiency of their work.

Police officers who already perform their function are theoretically and practically taught about these issues at the regular monthly seminars on self-defence and police procedures. These seminars are an upgrade to the systematic education relating to the respect for human rights and dignity that is carried out through studying individual cases. All types of education also pay attention to complaints about the abuse of police functions and to the ways of avoiding such abuses.

c) Prisons

The report states that the most difficult problem in Slovenian prisons is overcrowding. The latter is true of all three biggest prisons, including the one in Ljubljana, which has been omitted in the text. A new prison in Koper will be opening in 2004 and not in 2003, which will, above all, improve the situation in the Ljubljana prison, since a transfer of a certain number of convicts into the new prison is scheduled to take place. At the same time, the Slovenian authorities are also planning to begin the gradual renovation of the Maribor prison, as well as to prepare a project of an integral renovation of the closed section of the Dob prison.

The report contains an incorrect statement that judicial protection cannot be required in case a person has been sent to the Aliens' Centre by the police. It is true that first, a complaint is lodged with the Ministry of the Interior, the latter being the body of appeal deciding under the provisions of the General Administrative Procedure Act. Subsequently, however, an administrative dispute may be launched at the Administrative Court of the Republic of Slovenia and a complaint filed with the Supreme Court of the Republic of Slovenia; the basis for the latter two legal remedies is Article 157 of the Constitution of the Republic of Slovenia and the provisions of the Administrative Disputes Act of 1997 (Article 1, paragraph 1, of the Administrative Disputes Act provides judicial protection in an administrative dispute not only against the decisions of state authorities, but against the acts of the state authorities, as well).

IV. THE SITUATION OF REFUGEES, ASYLUM SEEKERS AND MIGRANTS

Cultural activities

The Ministry of Culture accords priority treatment to cultural activities and projects for refugees and asylum seekers, in terms of their integration into cultural life.

Education of refugees (item 76)

As regards the area of education, the rights of asylum seekers in Slovenia are regulated by the Rules on the Modalities for Granting Rights to Asylum Seekers and Aliens who were Recognised a Special Protection (Official Gazette RS, no. 80/13 September 2002). The Rules cover the issue of elementary education, which stems from the fact that most of these children left Slovenia after a few months and no desire to attend secondary school has been recorded by the year 2003. 16 students attended school in the 2002/2003 school year, four of whom left school after four months. All of the above-mentioned students received material assistance. Since, however, the current legislation in this area is still rather undefined, an interdepartmental group has already officially been established with the view to better defining the rights and obligations of asylum seekers and also the responsibilities of individual ministries.

V. THE SITUATION OF CERTAIN VULNERABLE GROUPS

A specialised group at the Ministry of Culture has already monitored this issue and has drafted an analysis of the situation. In the future, it is considering to adopt a systematic organisational approach to the issue. Within the framework of regular programmes of the Ministry of Culture, certain projects of the above-mentioned group have already received financing.

Trafficking in human beings

The bill amending the Penal Code is in the parliamentary procedure. Its Article 387.a introduces and defines the offence of trafficking in human beings.

On 26 February 2002, a national coordinator (a representative of the Ministry of the Interior) was appointed on the basis of the Government of the Republic of Slovenia Decision No. 901-09/2000-9 to be responsible for managing and coordinating work relating to trafficking in human beings. On 18 December 2003 an Interdepartmental Task Force on Trafficking in Human Beings was established on the basis of the Government Decision No. 240-05/2003-1. Its members include representatives of relevant ministries, non-governmental organisations and international non-governmental organisations. The Task Force acquired, through the endorsement by the Government, a broader mandate for its functioning. Thus, a national mechanism for formulating strategies for the fight against trafficking in human beings has been set up which is comparable to the mechanisms in other European countries.

Preventing trafficking in human beings is one of the priority areas of the Republic of Slovenia's co-chairmanship of the Stability Pact for South Eastern Europe Task Force (Sub-table) for Defence and Security Issues. Within the framework of the latter, Slovenia actively supports the further endeavours of the Stability Pact for South Eastern Europe Task Force on Trafficking in Human Beings, placing special emphasis on preventing trafficking in children and on protecting victims or witnesses of such trafficking.

A social institution for persons with disabilities

In this year, the Ministry of Labour, Family and Social Affairs required that a development project of the renovation of special social institutions be devised, including the social institution for persons with disabilities in Lukavci, to which a team of the Commissioner's Office paid a visit.

A detailed course of renovation, as well as the funds required, will be planned by the Ministry following the final report of the development task.

Social and labour rights

As regards the adoption of measures for granting equal access to employment to all groups, and especially to elderly people, women and Romany population, this report wishes to draw attention to Article 6 of the Employment Act, which mentions general ban on discrimination (on any grounds) in employment, and also throughout the employment relationship and with regard to the termination of the employment contract. Discrimination is banned on the grounds of gender; race; skin colour; age; health condition or disabilities; religious, political or other beliefs; membership of trade union; national or social origin; family status; financial position; sexual orientation or other special circumstances. An anonymous toll-free telephone line was opened in the framework of the Office for Equal Opportunities. This telephone line offers consultation in cases of non-compliance with the obligations and alleged breaches of rights from employment relationship, as well in cases of non-discrimination. The Office for Equal Opportunities also issued a special brochure titled "My Rights" which outlines equal treatment of men and women in the Employment Act. The strategic objectives of the development of labour market and employment in Slovenia in the period 2000-2006 also need mentioning. These objectives aim at raising the level of education and qualifications among active population, reducing structural imbalances, ensuring the inclusion of all unemployed young people in active programmes, reducing regional imbalances in the labour market, the growth of employment and further development of social partnership. Furthermore, mention should be made of the objectives of the National Programme for the Development of the Labour Market and Employment Until 2006, the Active Employment Policy Guidelines for 2002 and 2003, as well as the Active Employment Policy Programmes for 2002, all of which are directed primarily at:

- Improving the possibilities of employment of the difficult-to-employ people, the latter category comprising people aged over 50 who have been registered with the National Employment Office for more than 6 months; people aged over 45 who have attained the secondary level of vocational education or lower and are registered as long-term unemployed; people with a recorded decline in their work skills, the consequence of which is not the status of disability; disabled people; people taking care by themselves of one or more children aged under 15 or married to an unemployed spouse; as well as people with recorded obstacles to their employment, or people having no education, qualifications or work experience.

- Reducing structural imbalances in the labour market which result from a low education level of employment seekers or their inappropriate qualification not meeting the demands of employers in the labour market.

- Reducing imbalances among regions by promoting employment in the regions with the above-average unemployment rate, which is why most measures have a marked regional approach. More funds are provided for the regions with the above-average unemployment rate and the percentage of co-financing individual programmes is also higher.

- Providing equal opportunities of access to the labour market and employment. In integrating the unemployed into employment programmes, special attention will be devoted to women, which will enable the preservation of a balanced gender structure in the unemployed population, since the share of women is higher than that of men in most Active Employment Policy programmes. Through the SBPC (Small Business Promotion Centre) a programme of promoting self-employment of women is already being implemented.

77 per cent of the recorded unemployed people from the total of 102,635 unemployed people (52,528 of them being women) were included in Active Employment Policy programmes in 2002, which represents 78,580 people, 51,000 of them being long-term unemployed. The percentage of funds allocated for Active Employment Policy programmes is increasing in the total expenditure for passive and active measures in the area of employment (passive measures are unemployment allowances and unemployment assistance, while active measures are intended for Active Employment Policy programmes).

From 1998 to 2002, the amount of funds allocated for employment programmes policy increased from SIT 9.9 million to SIT 16.6 million, while the percentage of funds allocated for active measures compared to passive measures increased from 25.4 per cent to 39.0 per cent.

1.1. Programmes of training and education

In the first three months of 2003, a total of 5,404 persons joined education and training programmes, which is by 71.8 per cent more than in 2002. The majority joined additional training and education programmes, i.e. 1,735, which accounts for 32.1 per cent of all persons participating in education and training programmes.

In these three months, 1,447 persons participated in the programmes of assistance in planning career objectives and in jobseeking, which accounts for 27.3 per cent of all those included in education and training programmes in this period. In comparison to the previous year the number of participants has increased by 77.9 per cent. The greatest number of participants is recorded by the Maribor regional office (289), and the smallest number by the Nova Gorica regional office (26). No participants were recorded by the Sevnica regional office.

Jobclubs, in which participants are trained to undertake a successful and efficient jobsearch, have recorded a total of 334 persons included in such programmes from January until March (6.2 per cent of all persons participating in education and training programmes, which shows an increase of 71 per cent compared to 2002). The Maribor regional office records the greatest number of participants in programmes (72), followed by the Murska Sobota regional office (46), while no participants have been recorded by the regional offices in Sevnica and Trbovlje.

Project learning for young adults is a publicly accredited programme of informal education intended for young people between 15 and 25, which aims at motivating these people to integrate into regular education and training to become more competitive on the labour market. In this period, a total of 27 persons participated in the programme carried out in six different regional offices (in Celje, Koper, Kranj, Ljubljana, Nova Gorica, and Velenje). The greatest number of participants has been recorded by the Ljubljana regional office (11), and the smallest by the Celje regional office (1).

Within additional training and education programmes, courses, seminars and other training programmes are carried out, providing the participants with additional knowledge, skills and abilities which increase their competitiveness on the labour market; the unemployed participate in such programmes with an aim to get employment after the acquisition of specific knowledge. In the first three months, a total of 1,735 persons participated in these programmes, which accounts for 32.1 per cent of all participants in education and training programmes. In comparison to 2002, the number of participants has increased by 96.7 per cent. The Celje regional office records the greatest number of participants (486), followed by the Maribor regional office (470), and the Trbovlje regional office records the least participants (9).

Programme 5000 (or Programme 10,000) is a programme of the Ministry of Labour, Family and Social Affairs and the Ministry of Education, Science and Sport allowing unemployed persons to acquire elementary or vocational (professional) qualifications. The aims of the programme are: to raise the educational level of unemployed persons; to promote their employment; and to reduce occupational structural imbalance on the labour market. In the school year 2002/2003, a total of 1,008 persons have been participating in this programme: 779 persons participate for the first time, 185 for the second year, 37 for the third year, 6 for the fourth year, and 1 for the fifth year. In comparison to 2002, the number of participants has increased by 11.4 per cent. In March, 381 new participants were recorded, which is by 23.9 per cent more than in March 2002. In the school year 2002/2003, 4,970 participants were recorded from September to the end of March, which is by 21.9 per cent more than in the same period of the previous school year.

In work trials 684 participants were recorded in the specific period (12 per cent of all participants in education and training programmes). In comparison to the same period in 2002, the number has increased by 96 per cent. The most participants have been recorded by the Maribor regional office (121), the Murska Sobota regional office (117) and the Ptuj regional office (106); the smallest number has been recorded by the Kranj regional office (8).

The programme of on-the-job training with or without an employment contract is aimed at reintegrating into work people whose knowledge and work experience do not facilitate direct employment or the preservation of employment. In the first three months, a total of 52 persons have been recorded (in 2002 only 1); the most participants have been recorded by the Murska Sobota regional office (37), while no participants have been recorded by regional offices in Koper, Kranj, Maribor, Nova Gorica, Ptuj and Sevnica in this period.

In 2003, the programme of entry into employment through training was only attended by unemployed persons for whom the decision on their participation was taken in 2002; a total of 123 participants has been recorded in this period, the most participants being recorded by the Ljubljana regional office (42), while regional offices in Kranj, Nova Gorica and Novo mesto have not recorded any participants.

1.2. Training and employment of disabled persons

The implementation of training and employment programmes is influenced by the movements of unemployed disabled persons. There are currently 11,000 unemployed disabled persons in Slovenia for whom the Employment Service of Slovenia provides different services such as rehabilitation counselling, preparation of rehabilitation plan, and cooperation with employers in employing unemployed disabled persons etc. In addition, there are 145 sheltered workshops which employ around 6,150 disabled persons that monthly receive subsiding wages.

From 2000 to 2003, the range of activities has been as follows:

Activity – Programme	2000	2001	2002	January–April 2003
Number of persons dealt with by the expert commission	580	356	401	103
Number of persons dealt with by the medical consultation service	4,048	3,680	3,744	1,356
Adaptation of posts	6	7	11	0
Subsidising of wages	232	167	106	90
Persons included in vocation rehabilitation programmes	930	1,077	1,578	544
TOTAL	5,796	5,287	5,840	2,093

The Ministry of Labour, Family and Social Affairs is drafting a new law on employment rehabilitation and employment of disabled persons, which is to facilitate an increased employment of disabled persons and reduce their unemployment. The unemployment of disabled persons is to be reduced by half in the following years, since 5,000 of 11,000 unemployed disabled persons should find employment owing to measures stipulated in the new law. The basis for the new law is the Social Agreement regulating employment and employment rehabilitation of disabled persons. The new law introduces the right of every disabled person to employment rehabilitation, and a quota system for employment of disabled persons. Each employer with more then 20 employees will have to employ a certain number of disabled persons or will have to pay contributions in the fund intended for the employment

of disabled persons. The increased employment of disabled persons will be enabled particularly by employment rehabilitation, which is the right to certain services through which disabled persons are trained for employment. New regional centres will be set up for the purpose of employment rehabilitation. Such a centre is currently being constructed in the Koroška region.

1.3. Public works

Public works are local or national employment programmes intended to encourage the opening-up of new jobs and the preservation and development of the work skills of unemployed persons. They may be carried out in various areas or activities and have different requirement levels. Public works enable unemployed persons to integrate into the world of labour, preserve or develop work habits and skills for reemployment, discover new employment possibilities and opportunities of self-employment and increased social security.

1.4. Employment of the Roma - the Programme for the Employment of the Roma was drafted in 2000 and was based on the Employment Action Plan in Slovenia for 2000 and 2001. This was a two-year programme and it twice exceeded the scheduled number of the Roma included. New national and local employment programmes for the Roma are under preparation in the Republic of Slovenia (taking into account their territorial concentration and autochthonous character): the Roma and their organisations (the Association, local societies) are directly involved in drafting these programmes. In order to ensure to the Roma equal access to employment, the Ministry of Labour, Family and Social Affairs co-financed the project "the Roma in the Process of European Integration/Situation in Slovenia, Austria and Croatia; Development of Models for the Education and Training of the Roma. The project is being developed by the Institute for Ethnic Studies (it will be completed in 2004). Under its objectives and purposes the project defines the implementation of the equal opportunities programme relating to the employment of the Roma and the drafting of specific proposals for the most appropriate models of the development of employment and vocational training of the Romany community in Slovenia.

1. The supervision of the implementation of labour legislation is carried out in compliance with the Employment Act, Labour Inspection Act and Inspection Supervision Act by the Labour Inspectorate and labour inspectors. In 2002 labour inspectors closely supervised the implementation of those provisions of labour legislation which had not been complied with for years. Here mostly belong violations relating to employment and wages. The findings of inspection have shown that in certain segments, problems have not been alleviated. It is considered that the existing problems in that segment of labour legislation are frequently the result of insolvency of employers. In 2002, 61 violations have been established in respect of the wage amount, mostly in construction and catering industries. A new Employment Act entered into force as at 1 January 2003, introducing many changes in the employer-employee relationship. In the initial period inspectors will, during supervision, also draw attention to the provisions of the new act in addition to taking measures in case of established violations. It is expected that broader professional assistance will be provided to employers and employees in the implementation of the act. The new act also introduces some new powers of labour inspectors, e.g. suspended effect of the notice of termination of the contract of employment and inspector's mediation for an amicable settlement of a dispute between the employer and the employee. In addition to the new Employment Act, the Inspection Supervision Act entered into force in 2002. This act also introduces certain new powers and measures of

inspectors. It follows from the above that the preventive role of the Labour Inspectorate of the Republic of Slovenia will be further strengthened. In case of serious violations of labour legislation, inspectors will have more extensive possibilities of action since the new act defines certain conduct of employers as a violation and also provides for the possibility of mandatory punishment.

2. In 1999 the Republic of Slovenia ratified the European Social Charter (as amended) and accepted the "Additional Protocol to the European Social Charter" regulating the system of collective complaints. Slovenia made a "Declaration contained in a Note Verbale handed to the Secretary General at the time of deposit of the instrument of ratification on 7 May 1999: In accordance with Part IV, Article D, paragraph 2, of the Charter, the Republic of Slovenia declares that it accepts the supervision of its obligations under this Charter following the procedure provided for in the Additional Protocol to the European Charter providing for a system of collective complaints, done at Strasbourg on 9 November 1995."

OTHER REMARKS

Footnote 10
The following text must be added after "The decision of the Constitutional Court: (No. U-I-416/98, 22 March 2001, published in: Official Gazette of the RS, No. 28/2001)".

The heading: Problems relating to the denationalization of property

Under item 32 the term municipal property must be replaced with the term "socially-owned property", since the housing units were not municipal property. The wording "municipal tenants" under the same item must be replaced with "holders of the occupancy right in these apartments". The above rectification is in compliance with former terminology under socially-owned property law, former holders of the occupancy right became tenants in the (future) denationalized apartments only in December 1991, after the entry into force of the Denationalisation Act.

At the end of item 33, the word "tenants" must be replaced with "former holders of the occupancy right".