

# **ECRI REPORT ON SLOVENIA**

**(fourth monitoring cycle)**

Adopted on 17 June 2014

Published on 16 September 2014

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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## FOREWORD

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

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking place in 5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

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

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

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

**The following report was drawn up by ECRI under its own and full responsibility. It covers the situation up to 4 December 2013 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.**





## SUMMARY

**Since the publication of ECRI's third report on Slovenia on 13 February 2007, progress has been made in a number of fields covered by that report.**

Slovenia ratified Protocol No. 12 to the European Convention on Human Rights on 7 July 2010. A new Criminal Code came into force in 2008; some of the provisions relating to combating racism and racial discrimination have been strengthened.

Important steps have been taken to improve the situation of Roma. In March 2007, the Roma Community Act was enacted, addressing comprehensively the needs of this group. The Government has also adopted the National Programme of Measures for Roma for the period 2010-2015. Thanks to various strategies and projects, all Roma have access to pre-schools, Roma assistants are being trained and a network of schools providing education to Roma pupils has been established, enabling teachers to exchange experience and good practice. An increased number of employment and public works projects for members of the Roma community have been established.

Legislation enacted in 2009 and 2010 provided the possibility for the "erased" retroactively to reinstate their permanent residence status by applying, within three years, for a permanent residence permit. Following the European Court of Human Rights' finding of violations in the case of Kuric and others v. Slovenia, the authorities have drafted a bill proposing a domestic compensation scheme for the "erased".

The Slovenian hotline "Spletno Oko" (Web Eye) was launched in March 2007 for the anonymous reporting of illegal content found on the Internet, including racist hate speech.

The police pre-procedure, whereby it was up to the border guards to decide whether a person who had crossed the border could apply for asylum or not, has been abolished. Training for police on stereotype and prejudice awareness and discrimination prevention in a multicultural community has been initiated.

**ECRI welcomes these positive developments in Slovenia. However, despite the progress achieved, some issues continue to give rise to concern.**

The Law Implementing the Principle of Equal Treatment is dysfunctional. Racial discrimination has not been established in any case so far. The Advocate of the Principle of Equality lacks the organisational and budgetary independence required of a body for the promotion of equal treatment.

Hate speech on the Internet has increased, targeting mainly Roma, LGBT people and Muslims. Racist and xenophobic rhetoric used by political figures often goes unchecked.

Widespread discrimination against Roma persists. Most Roma continue to live in settlements isolated from the rest of society in conditions well below the minimum standard of living. Public utility facilities are inadequate or non-existent; there is a lack of access to a safe water supply in or near some settlements.

Following recent amendments to the International Protection Act, the right of asylum seekers to State-funded legal aid at first instance (before the Asylum Division of the Ministry of Interior) has been abolished, including for minors, and financial aid for asylum seekers living outside the Asylum Home has been reduced by 50%. Social housing is only available to Slovenian citizens and refugees are not eligible.

There is no body independent of the police and prosecution entrusted with the examination of cases of alleged police misconduct, including racist or racially discriminatory behaviour.

There is no collection of disaggregated equality data in Slovenia.

**In this report, ECRI requests that the Slovenian authorities take further action in a number of areas; in this context, it makes a series of recommendations, including the following.**

The authorities should introduce a criminal law provision expressly considering racist motivation as an aggravating circumstance for any offence. Furthermore, they should review the Law Implementing the Principle of Equal Treatment to ensure that it functions effectively as comprehensive anti-discrimination legislation. A suitable solution should be found, with all parties involved, in order for a fully independent national specialised body to combat discrimination, including racial discrimination, to start operating as soon as possible\*.

Politicians should be encouraged to take a firm and public stance against the expression of racist and xenophobic attitudes, including when they come from within their own ranks. A code of conduct should be promoted for Members of Parliament with provisions expressly banning the use of racist and xenophobic discourse and these should be enforced vigorously.

Furthermore, the authorities should take immediate action to ensure that all Roma have practical access to a safe water supply in or in the immediate vicinity of their settlements where this is still a problem\*. They should also enter into discussions with representatives of the different Roma communities in order to find the best possible solution regarding the composition and functions of an effective Roma Community Council.

A suitable and fair solution should be found for compensating the “erased”, as required by the European Court of Human Rights, as well as resolving the legal status of any “erased” who wish to obtain Slovenian citizenship or permanent residence in Slovenia\*. Steps should be taken to promote a positive image of the “erased”, as victims of human rights violations, and ensure that the need for compensation is understood by the public.

Free legal aid should be available to asylum seekers from the outset of the asylum proceedings and asylum seekers living outside the Asylum Home in private accommodation should be provided again with full financial support. Moreover, all persons residing lawfully in Slovenia, regardless of their citizenship, and including persons granted international protection, should have access to social housing.

A body independent of the police and prosecution authorities entrusted with the examination of cases of alleged police misconduct, including racist or racially discriminatory behaviour, should be established.

Disaggregated equality data should be collected, with due respect for the principles of confidentiality, informed consent and voluntary self-identification, for the purpose of combating racial discrimination.

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\* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

## FINDINGS AND RECOMMENDATIONS

### I. Existence and Application of Legal Provisions

#### International legal instruments

1. In its third report, ECRI strongly recommended that the Slovenian authorities ratify Protocol No. 12 to the European Convention on Human Rights (ECHR) without delay. It reiterated its recommendation that they ratify the European Convention on Nationality and the Convention on the Participation of Foreigners in Public Life at Local Level and furthermore recommended ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
2. ECRI is pleased to note that Slovenia ratified Protocol No. 12 to the ECHR on 7 July 2010; this entered into force on 1 November 2010 (see also § 5 below). However, ECRI regrets that there have been few developments concerning the other conventions mentioned above. The European Convention on Nationality has still not been signed or ratified. The Convention on the Participation of Foreigners in Public Life at Local Level was signed on 23 November 2006 but has not been ratified. The authorities indicated some difficulties with the concept of “habitual residence” (as used in Article 6 on the right of foreigners having habitual residence to vote in and stand for local authority elections). However, they were optimistic that this might be resolved by forthcoming amendments to the Act on Permanent Residence. Slovenia has also not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, in accordance with the decision taken by all EU member States regarding this instrument. Despite the fact that there are now very few migrant workers in Slovenia, ECRI considers that ratification of this convention would help to protect migrants from exploitation and xenophobia.
3. ECRI reiterates its recommendation that the Slovenian authorities sign and ratify the European Convention on Nationality and ratify the Convention on the Participation of Foreigners in Public Life at Local Level and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

#### Constitutional provisions

4. In its third report, ECRI invited the authorities to consider strengthening the protection provided by the Constitution against racism<sup>1</sup> and racial discrimination<sup>2</sup>.
5. As stated in ECRI’s third report, the Constitution contains safeguards against discrimination which are limited to discrimination in respect of human rights and fundamental freedoms and not in relation to all rights established by law. However, as noted above, Slovenia has now ratified Protocol No. 12 to the ECHR which provides for a general prohibition of discrimination. In the Slovenian legal system, ratification and publication of an international treaty (including a protocol) immediately incorporates it into national law and it can be directly invoked and

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<sup>1</sup> According to ECRI’s General Policy Recommendation (GPR) No. 7 on national legislation to combat racism and racial discrimination, racism is the belief that a ground such as “race”, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons or the notion of superiority of a person or a group of persons.

<sup>2</sup> According to ECRI’s GPR No. 7, racial discrimination is any differential treatment based on a ground such as “race”, colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

applied by domestic courts. Moreover, such treaties have supremacy over acts of parliament and secondary legislation. In view of this, ECRI welcomes this development which could lead to significant advancement in the fight against racism and racial discrimination.

### **Criminal law provisions**

6. In its third report, ECRI recommended that the Slovenian authorities take steps to improve the application of the criminal law provisions in force against racism and racial discrimination and, in particular, that they improve the response of the criminal justice system to racially motivated offences.
7. ECRI notes that on 1 November 2008, a new Criminal Code entered into force. Article 131<sup>3</sup> on violation of the right to equality states that whoever, on account of nationality, race, skin colour, religion, ethnic origin, gender, language, political or other beliefs, sexual orientation, financial situation, birth, genetic heritage, education, social position or any other circumstance, deprives another person of any human right or liberty recognised by the international community or laid down by the Constitution or statute or restricts the enjoyment thereof, or grants another person a special privilege or advantage on such basis, shall be punished by a fine or sentenced to imprisonment for not more than one year.
8. Article 297<sup>4</sup>, now dealing with public incitement to hatred, violence or intolerance, has been strengthened. The new provision punishes with up to two years' imprisonment anyone who publicly provokes or stirs up ethnic, racial, religious or other hatred, strife or intolerance, or provokes any other inequality on the basis of physical or mental deficiencies or sexual orientation. The same article now also prohibits the denial, trivialisation or advocating of genocide, the Holocaust, crimes against humanity and war crimes. If any of the above acts are committed by an official in his or her official position, the punishment is imprisonment of up to five years. Under this article, editors are criminally liable if the offence has been committed through the mass media.
9. ECRI welcomes the above-mentioned new provisions which it considers essential for an effective fight against racism and racial discrimination. At the same time, it notes that there is no provision, other than a general one set out in Article 298 (3) (leadership of a group committing violence against people or damage to property), against the creation or the leadership of a group which promotes racism, as per its General Policy Recommendation (GPR) No. 7 on national legislation to combat racism and racial discrimination (paragraph 18 g).
10. ECRI recommends that the Slovenian authorities strengthen the Criminal Code provisions against racism and racial discrimination by including a provision specifically prohibiting the creation or the leadership of a group which promotes racism.
11. In its third report, ECRI strongly recommended that the Slovenian authorities introduce a criminal law provision that expressly considers the racist motivation of an offence as a specific aggravating circumstance.
12. ECRI notes that only one offence specifically gives rise to aggravated sanctions based on racist motivation. Article 116 (3) provides for a tougher sentence for murder when committed "in violation of equality" (a minimum of 15 years' imprisonment), as defined in Article 131 (see § 7 above). Apart from this,

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<sup>3</sup> Previously this was Article 141. Notably, this did not contain any reference to sexual orientation.

<sup>4</sup> Previously this was Article 300.

Article 49 contains a general norm providing that courts should consider all circumstances, including the motive for which the offence was committed, which have an influence on the “grading of the sentence (mitigating and aggravating circumstances)”. The authorities have stated that there are no plans to change the current system. ECRI regrets that the authorities did not take the opportunity when revising the Criminal Code to include a provision specifically requiring racist motivation to be taken into consideration as an aggravating circumstance for *all* offences. It considers that this additional element to ensuring that sanctions are effective, proportionate and dissuasive is crucial in the fight against racism and racial discrimination and refers again to its GPR No. 7 (in particular § 21).

13. ECRI once more reiterates its recommendation that the authorities introduce a criminal law provision expressly considering racist motivation as an aggravating circumstance for any offence.

14. In its third report, ECRI recommended that the Slovenian authorities take measures to raise the awareness among potential victims of racism and racial discrimination, of their rights and the legislation in force and to encourage them to come forward with complaints.

15. ECRI has no information on any steps taken to implement this recommendation, which it considers to be still relevant.

- *Data on the application of criminal law provisions*

16. In its third report, ECRI recommended that the authorities take steps to monitor the incidence of racially motivated offences and racist incidents in Slovenia and the response of the criminal justice system (the police, the prosecuting authorities and the courts) to any such acts. It also encouraged the authorities to collect readily available and accurate data on the application of the criminal, civil and administrative law provisions in force against racism and racial discrimination, covering the number and nature of the complaints filed, the investigations carried out and their results, charges brought, as well as decisions rendered and/or redress or compensation awarded.

17. According to the OSCE’s 2009 report on Hate Crimes In the OSCE Region – Incidents and Responses, Slovenia collects some information on hate crime; law enforcement institutions as well as the Ministry of Justice are primarily responsible for this task. The data are made public by the police in annual and semi-annual reports. ECRI notes, however, that data on the ethnic or national origin of the victim are not recorded, nor is there any recording of the specific motive behind offences involving violation of equality or public incitement to hatred, violence or intolerance. The authorities have stated that it would not be useful to record the specific motive and might even be problematic as it could, in a small country like Slovenia, lead to the identification of persons according to criteria (such as religion or sexual orientation). ECRI considers it important to record the specific motive behind offences relating to discrimination and incitement to hatred in order to ascertain the basis and extent of hate crime in the country so that it can be addressed adequately.

18. ECRI recommends that the specific motive is recorded in relation to the criminal offences involving violation of equality or public incitement to hatred, violence or intolerance.

19. ECRI notes, from information provided by the authorities, that the provisions of the Criminal Code relating to racism and racial discrimination are very rarely applied. Regarding Article 131 (violation of the right to equality), there was one conviction in 2007 and three convictions in 2011. Since that time there have been

no further indictments. As for Article 297 (public incitement to hatred, violence or intolerance), of four people indicted, one was convicted in 2010; following 44 investigations in 2011, 11 persons were indicted and eight were convicted; in 2012, following 31 investigations, 13 persons were indicted and the outcomes are as yet unknown. These low figures are attributed to a tolerant and peaceful society in Slovenia (see also § 64). ECRI considers that they may also reflect reluctance on the part of victims to report racist incidents or the failure of relevant authorities to record and effectively process them (see § 65).

- *Training for those involved in the criminal justice system*
20. In its third report, ECRI recommended that the Slovenian authorities strengthen their efforts to ensure that all those involved in the criminal justice system, from lawyers to the police, prosecuting authorities and the courts, are equipped with thorough knowledge of the provisions in force against racism and racial discrimination, trained on how to recognise and deal with racist motivation of offences, and made fully aware of the need to counter actively and thoroughly all manifestations of these phenomena.
  21. The Judicial Training Centre of the Ministry of Justice is responsible for the continuous training of judges, prosecutors and lawyers as well as for training of other court personnel. ECRI was informed that, following the entry into force of the new Criminal Code in 2008, the Judicial Training Centre provided detailed training relating to the discrimination provisions in 2010 and 2011. Subsequently on-going training on these issues has been arranged from time to time on a voluntary basis.
  22. As for police, the authorities informed ECRI that an anti-discrimination education programme for police was initiated in 2007. The training focused on the relevant international legal instruments as well as on identifying the cultural, ethnic or other characteristics of different groups and communities. The Police Academy has carried out projects to sensitise police in the fields of human rights. Police have been given brochures containing instructions and advice on how to behave in a multi-ethnic society, with a particular emphasis on relations with the Roma community. A training programme entitled "Stereotype and prejudice awareness and discrimination prevention in a multicultural community" has been carried out since 2009. Participants acquire the necessary skills for recognising and understanding various forms of discrimination and are equipped to provide an adequate response in their contacts with those who are marginalised or socially excluded on account of their origin, way of life or orientation (sexual, religious, political). This training is aimed at all police officers who work in ethnically and culturally heterogeneous areas. In addition, courses are offered in various languages, including Italian, Hungarian and Romany (see also § 174).

### **Civil and administrative law provisions**

23. In its third report, ECRI encouraged the Slovenian authorities in their efforts to ensure that civil and administrative law provisions provide adequate protection against discrimination and recommended that they keep the existing provisions against racial discrimination under review. ECRI drew the attention of the authorities to its GPR No.7, in particular as concerns: the need to protect individuals from discrimination on grounds of citizenship; the areas that should be covered by anti-discrimination legislation; the need to place public authorities under a duty to promote equality and prevent discrimination in carrying out their functions. Finally, ECRI recommended that the authorities make strengthened efforts to raise awareness among the general public, groups vulnerable to racial

discrimination, the legal community and other strategic partners of the civil and administrative legal framework in force against discrimination.

24. As mentioned in ECRI's third report, the Law Implementing the Principle of Equal Treatment (IPETA), as amended in June 2007, is the umbrella anti-discrimination act transposing into national legislation EU Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and EU Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. The law defines the "personal circumstances" and spheres of life in which equal treatment is guaranteed and discrimination prohibited. Personal circumstances include gender, citizenship, race or ethnic origin, religion or belief, disability, age and sexual orientation. Discriminatory acts are prohibited in every area of social life, in particular employment, professional and vocational education and training, social protection, including social security and health care, education and access to goods and services which are available to the public, including housing. ECRI is pleased to note that citizenship has been included in the list of grounds of discrimination. However, it notes that language does not figure in the list, as per ECRI's GPR No. 7. Nevertheless, since the list is non-exhaustive, it should be able to be invoked.
25. The law prohibits direct and indirect discrimination, victimisation and any kind of harassment. It provides for special measures (positive and incentive measures) designed to give priority or special benefits to persons in a less favourable position. Under Article 11, cases of alleged violations of the ban on discrimination shall be considered by the Advocate of the Principle of Equality (hereafter the Advocate). The proceedings are informal and free of charge. They are generally concluded by a written opinion in which the Advocate states his/her findings, draws attention to any irregularities established and recommends how they should be resolved. In the event that the infringer does not cooperate or eliminate the irregularities established, the Advocate may submit the case to the relevant inspection authority which may then start formal misdemeanour proceedings to impose a fine. Persons who have been discriminated against may also initiate judicial and administrative proceedings and are entitled to compensation under the general rules on damages. In such proceedings, the law provides for the sharing of the burden of proof.
26. While the law is commendable for covering a vast area of protection in all fields of everyday life, with open-ended discrimination grounds, ECRI notes that there is general agreement, including on the part of the authorities, that it is dysfunctional. This is mainly due to the failings highlighted in the next section of this report on Anti-discrimination bodies and other institutions – Advocate of the Principle of Equality (see §§ 32-35). However, it should also be noted that proceedings before the Advocate result merely in an opinion which is not legally binding. Other legal proceedings must be initiated to impose fines or in order for victims of discrimination to obtain compensation. As regards submitting cases to inspection authorities, ECRI is not convinced that proceedings in such cases can be impartial and independent since inspection services are part of ministries. Moreover, in some areas, such as higher education and housing, there is no relevant inspection body. Finally, ECRI notes that the law is silent on the role of the Advocate in judicial and administrative proceedings.
27. ECRI notes that complaints under the IPETA are increasing each year, but the overall numbers remain low. In 2010, around 60 discrimination complaints were submitted for examination to the Advocate; this rose to 94 in 2011. As concerns alleged racial discrimination, 24 complaints have been reported between 2006

and 2010, which is an average of five per year. Racial discrimination has not been established by the Advocate in any case so far.

28. Furthermore, the IPETA appears to be little known to the general public. According to the country report on Slovenia for the European Union's Fundamental Rights Agency (FRA)<sup>5</sup>, people are still not sufficiently informed of their rights and of their options in cases of discrimination. Usually, when discrimination arises, other legislation is invoked, such as the Labour Law which offers better protection and remedies.
29. ECRI recommends that the authorities review the Law Implementing the Principle of Equal Treatment to ensure that it functions effectively as comprehensive anti-discrimination legislation. In particular, they should ensure that there is an independent body able to issue binding and enforceable decisions, with the right to initiate, and participate in, court proceedings. ECRI refers to its General Policy Recommendations No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level and No. 7 on national legislation to combat racism and racial discrimination.
30. ECRI reiterates its recommendation that the authorities raise awareness about the civil and administrative legal framework in force against discrimination, including racial discrimination, among legal professionals and the general public.

### **Anti-discrimination bodies and other institutions**

#### *- Advocate of the Principle of Equality*

31. In its third report, ECRI encouraged the authorities in their efforts to ensure that the legal framework against racial discrimination is adequately supported by institutional mechanisms which monitor and assist in its implementation and promote research and awareness in the field of non-discrimination and equality. It also recommended the authorities to keep the status, powers and duties of the Advocate of the Principle of Equality under review, in order to ensure that he/she provides victims of racial discrimination with the most effective protection possible. In particular, ECRI drew the attention to the need for such a body to be independent and to the powers that should be attributed to it.
32. The Advocate of the Principle of Equality is Slovenia's body for the prevention and elimination of discrimination on all grounds, including racial discrimination. It was set up under the Law Implementing the Principle of Equal Treatment (IPETA). Further to the 2007 amendments to the IPETA, the Advocate's mandate has been expanded to providing general information on equality, recommendations and advice, in addition to examining discrimination complaints on grounds of gender, ethnicity, race or ethnic origin, religion or belief, disability, age, sexual orientation, or other personal circumstance, in both the public and private spheres, and providing assistance to victims, including legal counselling in discrimination proceedings.
33. ECRI notes that there are a number of problems regarding the institutional framework and capacity of the Advocate. Firstly, although the IPETA provides that the Advocate shall perform his or her professional and organisational tasks autonomously, impartially and independently, this is clearly not the case in practice. The Advocate was originally placed under the Government Office for Equal Opportunities. In April 2012, this office was merged with the Ministry of

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<sup>5</sup> The impact of the Racial Equality Directive: survey of trade unions and employers in the Member States of the European Union, Slovenia, Andreja Poje, 2010.



Labour, Family and Social Affairs. The Advocate is now a special post within the ministry and not a legal entity in its own right, and is appointed by the Government for a fixed period of five years. It lacks the organisational and budgetary independence required of a body for the promotion of equal treatment according to above-mentioned EU Council Directive 2000/43/EC<sup>6</sup> as well as per ECRI's GPRs Nos. 2 and 7. ECRI was informed that Slovenia received a warning from Equinet<sup>7</sup> in December 2012 calling into question the independent functioning of its equality body. Infringement proceedings could be initiated if Slovenia does not take action to remedy the situation.

34. Secondly, the duties of the Advocate are performed entirely by one single person with no executive personnel to assist him, although the ministry provides some secretarial support. In view of the broad area of supervision under his responsibility (see the section above on the IPETA), it is not surprising that the Advocate has a considerable case backlog. In December 2010, the Advocate submitted a special report to the Government in which he described the system as critically ineffective and incompatible with various international obligations.
35. Fully aware of these urgent problems, the authorities informed ECRI that two solutions are currently under consideration. The first is to transfer the tasks of the Advocate to the Human Rights Ombudsman. The second is to establish a fully independent anti-discrimination body, either by improving the present institution of the Advocate or by setting up an entirely new structure. ECRI notes that opinions vary considerably on which option is preferable. It refers to its GPR No. 2 in which it sets out alternative forms of specialised bodies (see principle 2 in the Appendix). ECRI considers that this situation should be resolved rapidly.
36. ECRI urges the authorities to find a suitable solution with all parties involved in order for a fully independent national specialised body to combat discrimination, including racial discrimination, to start operating as soon as possible. It refers to its General Policy Recommendations Nos. 2 and 7 for guidance on alternative forms of specialised bodies and a full list of the duties and activities that such a body should perform.
37. ECRI also strongly recommends that the authorities allocate adequate funding and personnel in order for the anti-discrimination body to carry out its functions properly.
38. Finally, ECRI commends the current Advocate for his endeavours to disseminate key information on discrimination and legal remedies through a special website launched in November 2010 in ten languages (Slovenian, Bosnian, Serbian, Albanian, French, German, English, Roma, Italian and Hungarian). It provides the possibility of submitting online applications to the Advocate. This was supplemented with a leaflet, including a form for filing complaints, in 11 languages (all the above-mentioned languages plus Croatian) and made available also in Braille.  
  
- *Human Rights Ombudsman*
39. In its third report, ECRI recommended that the Slovenian authorities ensure compliance of State and other public administrations with the recommendations and findings of the Ombudsman in all cases.

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<sup>6</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Article 13.

<sup>7</sup> European Network of Equality Bodies.

40. The Human Rights Ombudsman receives a small number of discrimination complaints each year. According to her 2011 Annual Report, out of a total of 2 512 complaints submitted in that year, 49 concerned discrimination (compared to 59 in 2010). Of these, 24 were based on national or ethnic origin.
41. The Ombudsman's 2009 Annual Report highlighted the frequent non-responsiveness of the authorities to her requests. Nevertheless, she pointed out that some State representatives were cooperative, notably the police. According to the Ombudsman's Annual Report for 2011, the Ministry of Interior and the police responded to the Ombudsman's requests and findings and took account of her proposals, opinions, criticisms or recommendations.

## **II. Discrimination in Various Fields**

### **Employment**

42. In its third report, ECRI recommended that the authorities strengthen their efforts to improve application of the legal provisions in force against racial discrimination in employment, in particular by reaching out to members of minority groups to inform them of the possibility of filing complaints and boost their confidence in the utility of doing so. ECRI also recommended that the authorities take steps to investigate possible patterns of racial discrimination in employment and that they improve the position of vulnerable groups in the labour market.
43. ECRI notes that the new Criminal Code contains a chapter on employment relationships, including Article 196 on violation of fundamental rights of employees and Article 197 on workplace mobbing, which punishes sexual harassment, physical violence, ill-treatment or unequal treatment at work, with imprisonment for up to two years.
44. ECRI has been informed that legislation in the field of employment, including recent amendments to the Labour Law, provides good protection against discrimination, including racial discrimination, as well as compensation possibilities. However, there continues to be only a very small number of complaints invoking discrimination. From 2006 to 2010, the Labour Inspectorate registered only 45 complaints relating to discrimination on any ground. According to the authorities most cases concerned gender and age discrimination and there were seldom cases based on "race" or ethnic origin. The reason given for the low numbers was either that employees were afraid to report for fear of retaliation, although this is prohibited by law, or that they were unaware that they had suffered discrimination. Knowledge of what constitutes discrimination appears to be quite low in the general public.
45. As for awareness-raising activities in the area of employment, the authorities informed ECRI that in 2009 a project on Diversity Management in Employment was carried out. Trade unions and employers were given training on the advantages of diversity in the labour market, the harmful effects of discrimination in employment and on the ways to recognise and implement measures to prevent discrimination as well as to raise awareness of victims. ECRI welcomes such projects and encourages the authorities to continue them. On the other hand, ECRI is not aware of any specific research into possible patterns of racial discrimination in employment.
46. As for vulnerable groups, ECRI notes that, according to the Employment and Insurance against Unemployment Act, all unemployed workers, regardless of citizenship and type of residence permit, are entitled to a cash benefit if unemployed, provided that, among other things, they reside in Slovenia.

However, Slovenia concluded bilateral agreements with “the former Yugoslav Republic of Macedonia” and Bosnia and Herzegovina in 2000 and 2008 providing that citizens of these States are only be eligible for unemployment benefits if they possess permanent residence permits. As such agreements take precedence over the domestic legislation, migrants originating from “the former Yugoslav Republic of Macedonia” and Bosnia and Herzegovina face a less favourable situation compared to other migrants. The authorities informed ECRI that they became aware of this problem in 2010 and amended the agreement with Bosnia and Herzegovina and are in the process of amending the one with “the former Yugoslav Republic of Macedonia”. ECRI welcomes this action to remedy the discrimination.

47. As regards migrants, ECRI has been informed that further to the financial crisis and the collapse of the construction sector, a large number of migrant workers left Slovenia.
48. Finally, ECRI discusses steps taken to improve the employment situation of Roma in the section below on Vulnerable/Target Groups – Roma.

## **Education**

49. In its third report, ECRI strongly recommended that the authorities monitor the situation as concerns the disproportionate representation of pupils from ethnic minority groups, including ex-Yugoslav minority groups, in schools and that they take, as necessary, swift measures to avoid de facto segregation in schools, by acting in close consultation with the school communities.
50. ECRI notes that the situation described in its third report has not changed. The authorities have stated that the higher representation of ethnic minority groups in certain schools is directly related to the districts where these minorities live since pupils, as a rule, enrol in the school nearest to their home.
51. In its third report, ECRI encouraged the Slovenian authorities to continue and further improve provision of specialised teaching of Slovenian as a second language in schools.
52. According to Article 10 (Foreigners) of the Elementary School (Basic Education) Act, last amended in 2007, children who are foreign nationals or stateless persons and reside in Slovenia have the right to compulsory basic education (i.e. primary and lower secondary level which lasts nine years) under the same conditions as nationals of Slovenia. ECRI is pleased to note that it now also states that schools should organise courses in Slovene for children who need help in learning the language. In this respect, it also observes that there is no data available on the number of children of non-Slovene mother tongue in schools since data on ethnicity and language is not registered.
53. ECRI notes that, in May 2007, the Strategy for the integration of migrant children and pupils into the education system was adopted with the aim of addressing the under-achievement of these children on account of their lack of competence in the teaching language (Slovene) and consequent social exclusion in the school environment. Furthermore, Guidelines for the education of migrant children were drawn up in 2009 defining the strategies of integration of these pupils and their parents. The pre-school curriculum includes activities for developing speaking competences in the Slovene language. Elementary schools conduct Slovene language courses for migrant children upon entry. In agreement with parents, schools may adjust the teaching methods and terms for the assessment of migrant pupils; teachers may assess knowledge according to the pupil's progress

and these adjustments apply for two school years. Finally, ECRI notes that a Slovene course syllabus for foreign pupils in upper secondary schools (70 hours) has recently been approved. ECRI welcomes these positive developments.

54. As regards refugee children, they are entitled to participate, free of charge, in courses on Slovene language and culture, for a total of 300 hours.
55. Concerning the education of the “erased”, while some reports state that no recent cases have been reported of children being excluded from school as a result of “erasure”, according to others, erased children with no legal status only have access to compulsory basic education. ECRI considers that both basic and secondary education should be free of charge and accessible to all persons regardless of their immigration status or that of their parents. It draws attention to its GPR No. 10 on combating racism and racial discrimination in and through school education, which highlights the need to ensure compulsory, free and quality secondary education for all.
56. ECRI recommends that the authorities ensure that all children have equal access to upper secondary education, regardless of their citizenship, ethnic origin or immigration status or those of their parents.
57. As concerns Roma, ECRI discusses their situation in respect of education in the section below on Vulnerable/Target Groups – Roma.

### **Housing and other services**

58. In its third report, ECRI recommended that the Slovenian authorities take steps to investigate possible patterns of racial discrimination in housing and any practices in use in the entertainment industry of refusing entry to persons of immigrant background to certain establishments, and to take the necessary corrective action.
59. ECRI is not aware of any investigations carried out into racial discrimination in housing or in the entertainment industry.
60. In its third report, ECRI encouraged the Slovenian authorities in their efforts to provide civil servants with training in human rights. It recommended that efforts be continued and strengthened to provide public officials, and especially those who are most often in contact with persons from minority groups, with the necessary skills to operate professionally in a multicultural society.
61. ECRI discusses training of public officials coming into contact with Roma in the section on Vulnerable/Target Groups – Roma (see § 118). ECRI also addresses housing issues related to Roma in the same section.

### **Health**

62. ECRI refers to a case of a migrant worker who, in 2010, was required to pay for emergency health care services by a hospital because her health insurance was not valid. Not having the money, the migrant left the hospital and died shortly afterwards. The incident was widely discussed in the media. The Minister of Health carried out an investigation which concluded that there was a lack of information on the issue. The Minister immediately issued instructions to hospitals, health care centres and medical professionals on the reception of patients in emergency medical services, to the effect that medical care must come first. In cases where payment cannot be ensured, the Ministry of Health refunds the costs to medical service providers from the State budget. ECRI

regrets that extreme circumstances led to these changes but commends the swift reaction of the authorities.

63. The above incident highlighted the fact that many thousands of people in Slovenia (around 0.12% of the total population<sup>8</sup>) are not covered under the compulsory health insurance scheme. In principle, this covers the total population either on the basis of employment and self-employment or residence. However, due to the failure by employers to register temporary employees or pay their insurance contributions, some people are left out of the system. This group also includes the “erased”. ECRI notes with interest in this respect that the authorities have set up two outpatient health care centres in Ljubljana and Maribor which provide emergency treatment as well as advice on obtaining health insurance, primarily through regularisation of legal status. The centres are equipped with doctors from all the main branches of medicine.

### **III. Racist Violence**

64. Although racist attacks are not frequent in Slovenia<sup>9</sup>, isolated incidents do occur. According to one report<sup>10</sup>, Roma, Muslims and persons belonging to a visible ethnicity are the most frequent victims of racist violence. For example, in 2009, a person of African origin was attacked with poison spray in the city centre of Kranj. In June 2010, the media reported that a person of Cuban origin was physically attacked at night by a group of approximately 20 young white skinheads in Ljubljana (see also § 75).
65. Both above-mentioned attacks were reported to the police. However, the authorities should take into account the possibility that in most cases victims do not report racist violence because they consider that the police pay little attention to the racist aspect and record incidents as ordinary offences. This may account for the very limited use of the relevant criminal law provisions mentioned earlier in this report (see § 19).

### **IV. Racism in Public Discourse**

#### **Media, including Internet**

66. In its third report, ECRI encouraged the Slovenian authorities to impress on the media, without encroaching on their editorial independence, the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards members of any minority groups vulnerable to racism, including Muslims or the “erased”. ECRI recommended that the Slovenian authorities engage in a debate with the media and members of other relevant civil society groups on how this could best be achieved.
67. ECRI notes that a new Law on Audiovisual Media Services entered into force in November 2011. It transposed the Audiovisual Media Services Directive into Slovenian legislation. Article 9 on prohibition of incitement to discrimination and intolerance states: “It is prohibited to promote national, racial, religious, sexual or other discrimination, violence and war, or incite national, racial, religious, sexual

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<sup>8</sup> Compulsory health Insurance in Slovenia, Today for tomorrow, Health Insurance Institute of Slovenia, 2007.

<sup>9</sup> According to the Global Peace Index (which takes into consideration respect for human rights and factors such as levels of violence and crime within the country), it is among the top ten most peaceful countries (it ranked 10th in 2011 and 8th in 2012).

<sup>10</sup> Racist Violence in Slovenia, by Vera Klopčič, Franci Zlatar and Eyachew Tefera, with the support of the Institute for African Studies, European Network against Racism, March 2011.

or other hatred and intolerance by means of audiovisual media services”. Moreover, Article 20 states that audiovisual commercial communications must not include or promote any discrimination based on sex, race or ethnic origin, nationality, religion or belief, disability, age or sexual orientation.

68. Administrative supervision of the implementation of the law is carried out by the Post and Electronic Communications Agency, which is an independent body. Its powers, in case of violations of the provisions of the law, include ordering measures to remedy the irregularities and deficiencies, initiating misdemeanour proceedings and reporting a crime or a complaint of a criminal nature to the competent authorities. Furthermore, it can suspend or revoke the permit of the broadcaster. A fine of 6 000 to 60 000 EUR can be imposed for violation of Article 20 (see § 67).
69. The Association of Slovenian Journalists and the Union of Slovenian Journalists have revised their 1991 Code of Journalists of Slovenia (code of ethics) several times, most recently in 2010. ECRI is pleased to note that the code prohibits incitement to violence and intolerance and contains provisions on hate speech and discrimination.
70. As concerns the Internet, ECRI notes that the Slovenian hotline “Spletno Oko” (Web Eye) was launched in March 2007 for the anonymous reporting of illegal content found on the Internet, specifically child abuse images and hate speech. It is financed by the European Commission, the Ministry of Higher Education, Science and Technology, the University of Ljubljana, the Slovene Consumers’ Association and the Academic and Research Network of Slovenia. It works in partnership with the police, the Public Prosecution Service, the Human Rights Ombudsman, Internet Service Providers and Slovenian media. Its web page is in both Slovenian and English and contains a form for reporting abuse. If Spletno Oko analysers consider the reported content to be illegal, they forward it to the police to pursue further.
71. According to the latest annual report of the hotline (up to 2010), in the period September 2008 to August 2009, there was an average of 23 reports per month concerning hate speech, while from September 2009 to August 2010, the average rose to 31 reports per month, which represents a 26% increase. Hate speech content was mostly found on web pages, forums and social networks and targeted mainly Roma, LGBT people and Muslims.
72. ECRI commends this initiative to raise awareness among the public of the unacceptability of racially motivated hate speech and to prevent the Internet from being abused. However, it also notes that prosecutors rarely initiate criminal proceedings relating to public incitement to hatred, violence or intolerance via the Internet. It refers to its GPR No. 6 on combating the dissemination of racist, xenophobic and antisemitic material via the Internet.
73. ECRI encourages the authorities to continue monitoring the Internet to prevent it from being used to disseminate racist comments and material and to prosecute and punish those who incite racial hatred, violence or intolerance.

### **Climate of opinion and political discourse**

74. In its third report, ECRI recommended that the Slovenian authorities monitor the situation as concerns the presence and activities of Neo-Nazi and skinhead groups in Slovenia and take all necessary measures to counter them.
75. Skinheads traditionally belong to a Slovenian national socialist movement known as Mladi Domobran (Young Militia Men or Home Guard). The authorities have

stated that the police monitor both extreme right and left wing movements. They consider that such groups are not a serious threat and do not engage in criminal activities. Nevertheless, an incident of threatening behaviour towards dark-skinned foreigners by skinheads wearing “white power” t-shirts was reported on an Internet forum<sup>11</sup> (see also § 64 above).

76. In its third report, ECRI strongly recommended that the Slovenian authorities take steps to counter the use of racist, xenophobic and otherwise intolerant discourse in politics. It also recommended that an annual debate be instigated in Parliament on the subject of racism and intolerance faced by members of vulnerable groups, including the “erased”, Roma, Muslims, ex-Yugoslav minority groups, asylum seekers and visible minorities. ECRI called on the Slovenian authorities to adopt ad hoc legal provisions targeting specifically the use of racist and xenophobic discourse by representatives of political parties, including, for instance, legal provisions allowing for the suppression of public financing for those political parties whose members are responsible for racist or discriminatory acts.
77. ECRI notes that Slovenia has one nationalist and openly xenophobic party, the Slovenian National Party (SNS). Recent opinion polls, however, indicate that its support has slipped considerably. Indeed, in the latest Parliamentary elections it got only 1.8% of the votes and no seats in Parliament.
78. ECRI is concerned to note that many reports refer to racist and xenophobic rhetoric used by political figures in Slovenia which goes unchecked. To cite one well-known example, the president of the SNS was indicted in 2006 for allegedly inciting hatred and intolerance against Roma in the course of a popular television programme in which he appeared. He was acquitted in January 2011. ECRI notes also that, in 2008, racist discourse directed against “erased” people was used in the course of the pre-election campaign by a political party. Similarly, such discourse was used during discussions in Parliament on “erased” persons’ entitlement to compensation (see the section on Vulnerable/Target Groups – The “erased”).
79. As regards ECRI’s recommendation on the instigation of an annual debate in Parliament on the subject of racism and intolerance faced by members of vulnerable groups and on the issue of suppression of public financing for political parties whose members are responsible for racist or discriminatory acts, there has been no notable development. Furthermore, there is no unified code of conduct for members of Parliament. Although several such codes of conduct have been drafted over the years, none of them has ever been finalised and entered into force. In view of the fact that the Parliament is considered to be one of the least trusted institutions in Slovenia<sup>12</sup> due to numerous scandals involving politicians in the past years, ECRI is of the view that the adoption of a Parliamentary code of conduct banning the use of racist and xenophobic discourse would help to restore confidence in politicians and ensure accountability.
80. ECRI recommends that the Slovenian authorities encourage politicians to take a firm and public stance against the expression of racist and xenophobic attitudes, including when they come from within their own ranks. It further invites the authorities to promote an open debate and adopt a code of conduct for Members

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<sup>11</sup> Racism in Slovenia - Indians get molested by Neonazis, 11 April 2012, <http://www.balkanum.com/forum/showthread.php/7239-Racism-in-Slovenia-Indians-get-molested-by-Neonazis>, originally posted on the lonely planet website.

<sup>12</sup> GRECO, Fourth Evaluation Round, Corruption prevention in respect of members of parliament, judges and prosecutors, Greco Eval IV Rep (2012) 1, Adoption: 19 October 2012, Publication: 30 May 2013.

of Parliament which includes provisions expressly banning the use of racist and xenophobic discourse and to enforce such provisions vigorously.

## V. Vulnerable/Target Groups

### Roma

81. ECRI notes that the size of the Roma population can only be estimated, since, according to the legislation in force on the protection of personal data, Government bodies may not keep records of persons based on national or ethnic affiliation. Estimates range from 7 000 to 12 000. ECRI is pleased to note several significant developments concerning Roma since its third report. The Local Self-Government Act and the Roma Community Act both came into force in 2007 and the Government adopted the National Programme of Measures for Roma for the period 2010-2015. These will be discussed below.
82. In its third report, ECRI recommended that, in their efforts to improve the situation of the Roma communities of Slovenia, the authorities avoid using the distinction between autochthonous and non-autochthonous Roma. It encouraged them to regulate the status and rights of the Roma communities pursuant to Article 65 of the Constitution and recommended that the viewpoints of as many Roma organisations as possible be taken into account. ECRI also recommended that the provisions aimed at ensuring Roma representation in municipal councils are complied with by all relevant municipalities.
83. ECRI expressed concern about the distinction between autochthonous and non-autochthonous Roma in both its second and third reports. Autochthonous Roma are those who are considered to have traditionally or historically lived in Slovenia for centuries and non-autochthonous Roma are those who came more recently from other parts of the Balkans, thus often referred to as "Balkan Roma". Many of the latter have lived in Slovenia for several decades and represent around half of all Roma in the country.
84. Article 65 of the Constitution sets out that the status and special rights of the Roma community living in Slovenia shall be regulated by law. The Local Self-Government Act of 2007, as amended on several occasions, sets out the obligation that in areas inhabited by autochthonous Roma communities, there must be at least one Roma representative in the municipal council. Moreover, the 20 municipalities concerned are now listed in the law, although municipalities which are not explicitly mentioned may also, if they so wish, provide for the representation of the Roma community in the city or municipal council. ECRI notes that the list does not include the cities of Ljubljana and Maribor, where large numbers of non-autochthonous Roma live. According to the authorities, the criterion of autochthonous status has only been applied to regulating political representation of local Roma communities and not in any other way. They assert that the general reproach that non-autochthonous Roma do not enjoy, or are restricted in the enjoyment of, special rights granted in order to protect their community is not justified.
85. However, according to various accounts, this differentiation constitutes a form of discrimination. In particular, the Ombudsman has challenged the restriction of political representation in municipal councils to autochthonous Roma only. ECRI considers that the distinction has a significant impact on the two different communities. Autochthonous Roma, being entitled to elect their representatives, can have an influence in local decision-making and in particular the use of funding for projects to improve their situation. Indeed, in the majority of municipalities in which Roma councillors have been elected, their participation in



the work of local councils has had a positive impact on the way in which the concerns of the Roma population are taken into account. Non-autochthonous Roma, on the other hand, are excluded from these possibilities and have no voice and no way to protect their interests (see also §§ 89 and 90 below). This makes their situation especially precarious.

86. ECRI affirms that *all* Roma in Slovenia are vulnerable and continues to call on the authorities to avoid using the distinction which results in disadvantage for the non-autochthonous Roma.

87. ECRI reiterates its recommendation that the authorities avoid using the distinction between autochthonous and non-autochthonous Roma. In addition, they should consider enlarging the list of municipalities obliged to have a Roma representative to all areas in which Roma are present in adequate numbers.

88. In March 2007, the National Assembly enacted the Roma Community Act. It regulates the status of the Roma community and defines the specific rights of its members; it also sets out the role and responsibilities of the State and local authorities. Furthermore, it regulates the financing of programmes and projects for the Roma community at the national and local levels. ECRI notes that this is one of the first laws in Europe addressing comprehensively the needs of the Roma community.

89. The act also stipulates the establishment of the Roma Community Council, which represents the interests of the whole Roma community, including the non-autochthonous Roma, in relation to State bodies. The Council consists of twenty-one members, of which fourteen are representatives of the Roma Union of Slovenia (an umbrella organisation of Roma associations) and seven are representatives of the Roma communities in municipal councils. The Council may submit opinions or proposals in matters falling within its competence to State authorities and it must be consulted on the adoption of legal acts relating to the Roma community.

90. ECRI regrets that the Roma Community Council does not appear to be functioning well. There are no fixed sessions and it does not meet on a regular basis. According to some, the present composition does not sufficiently reflect the diversity of views within the Roma community. The situation seems to be complicated by internal tensions and divisions between the different Roma communities. There is general agreement that Article 10 of the Roma Community Act, which regulates the composition and functions of the Roma Community Council, needs to be revised<sup>13</sup>. In this connection, the authorities have informed ECRI that an amendment to the Roma Community Act is being prepared which will revise the rules on the composition of the Roma Community Council.

91. ECRI recommends that the authorities enter into discussions with representatives of the different Roma communities in order to find the best possible solution regarding the composition and functions of an effective Roma Community Council.

92. The Roma Community Act also stipulates that the Government shall adopt a programme of measures in cooperation with local authorities and the Roma Community Council in order to ensure concerted exercise of the special rights of the members of the Roma community. Therefore, in March 2010, the Government adopted the National Programme of Measures for Roma for the

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<sup>13</sup> ECRI refers also to the Third Opinion on Slovenia of the Advisory Committee on the Framework Convention for the Protection of National Minorities, adopted on 31 March 2011, ACFC/OP/III(2011)003, Strasbourg, 28 October 2011.

period 2010-2015, which was developed in cooperation with Roma representatives. The programme focuses on housing, education, employment, health, culture and language and the fight against discrimination (some of these will be discussed below). It also addresses awareness raising among the majority population as regards the customs and traditions of the Roma community, and awareness raising among the minority population of their rights and obligations as citizens of Slovenia.

93. The programme will be implemented by the relevant ministries, other State bodies and local authorities which should adopt detailed sector-specific projects and earmark the necessary funding. According to the Roma Community Act, implementation should be monitored by a special working body, the Government Commission for the Protection of the Roma Ethnic Community. ECRI notes that this body was set up but was subsequently abolished in March 2012 when all matters relating to minorities, including Roma, were transferred under the competence of the Ministry of Interior. While ECRI welcomes the adoption of a national programme to assist Roma, it regrets that there is now no body supervising and monitoring its implementation. This might account for the feeling most people have that little has been achieved so far.
94. In its third report, ECRI encouraged the Slovenian authorities in their efforts to improve the situation of Roma in the field of education with the following specific recommendations: ensure that all measures provided for in the “Strategy for the Education of Roma in the Republic of Slovenia” are implemented in practice and that all Roma benefit from these; improve participation of Roma children in pre-school education; strengthen efforts to recruit a number of Roma teaching assistants that meets the needs; extend provision of Romany language classes; ensure that curricula for all children reflect Roma culture, history and identity and promote appreciation for diversity; ensure that no Roma child without learning disabilities is sent to a special needs school and address any instances of separate Roma classes.
95. ECRI is pleased to note that a number of steps have been taken to improve the situation of Roma in the field of education. The Strategy for the Education of Roma in the Republic of Slovenia, which was adopted in 2004 and described in ECRI’s third report, has, according to various accounts, had a significant impact. The project “Successful inclusion of Roma into education”, funded by the European Social Fund and coordinated by the Roma Union of Slovenia, ran from 2008 to 2011. It focused on introducing Roma assistants in schools; training was organised for 30 Roma assistants who received the national vocational qualification. The results were tangible: better relations between pupils and teachers and between parents and schools, and children attended more frequently and achieved higher scores. In addition, the project “Raising the social and cultural capital in areas inhabited by members of the Roma community” is being carried out from 2011 until 2013. This focuses on pre-school education, developing family literacy, study help for Roma pupils, and education of Roma girls and women. Its main innovation is the establishment of “incubators” – a complete programme of various methods of work with Roma children, youth and parents taking place in Roma settlements. Finally, the project “Successful integration of Roma children into education”, which builds on previous projects, is being carried out from 2011 to 2014. Its overall focus is on raising the level of education and creating a nationally regulated framework for the status of Roma assistants.
96. ECRI notes that the National Programme of Measures for Roma, in the field of education, contains the goals of including Roma assistants in the education process, early inclusion of pupils in pre-school education (by the age of four at

the latest), as well as learning about Roma culture and overcoming prejudices. It also calls for establishing a network of “support for learning”, especially for Roma in secondary schools. Each measure is accompanied by a specific budget and an implementation timetable.

97. The authorities informed ECRI that in a recent report of the Government and Parliament on the situation of Roma, very significant progress was highlighted in the area of education and training. As a result of the initiatives mentioned above, all Roma have access to pre-schools, Roma assistants are being trained and a network of schools which provide education to Roma pupils has been established, enabling teachers to exchange experience and examples of good practice. Furthermore, professional training programmes to prepare teaching staff for assisting Roma children are being developed. Schools that educate Roma children are granted special benefits by the State; the Ministry of Education and Sport gives additional funds for individual or group work with Roma children, allows for smaller classes and finances school meals, textbooks and excursions for Roma pupils. The ministry also provides scholarships for all Roma students engaged in teaching studies.
98. Concerning Roma teaching assistants, ECRI notes that there are now 30 at primary school level. At present they must have national qualifications at secondary level, but the intention for the next cycle of Roma assistants up to 2015 is for them to have higher educational qualifications and to place them also in pre-schools. According to many different reports, the introduction of Roma assistants has been highly successful in helping Roma children adapt to the school environment and in creating a link between the child, the family, the school and the community. ECRI encourages the authorities to develop further this important aid for both teachers and pupils and to invest in the promotion and training of greater numbers of such assistants.
99. ECRI strongly encourages the authorities to continue their efforts to support the training and recruitment of Roma assistants and to increase their numbers.
100. Regarding Roma language and culture, ECRI notes with interest the introduction into the curriculum, in 2007, of an optional subject on Roma culture. The teaching materials, including a textbook on Roma culture, have been prepared by Roma. The classes are run jointly by regular teachers and Roma assistants. ECRI welcomes this initiative but notes that there have been implementation difficulties; Roma language is not taught since it is not standardised and Roma children have not shown particular interest in the subject. Consequently few schools offer it. In ECRI's view, in addition to the optional subject on Roma language and culture, schools should ensure that the standard curriculum for all children reflects aspects of Roma culture and history. In this respect, it refers to its GPR No. 13 on combating anti-Gypsyism and discrimination against Roma (in particular § 4 q).
101. As concerns separate classes for Roma, which have been prohibited since 2003, ECRI is pleased to note that this problem seems to have been resolved. It has not heard about any Roma-only classes and mixed classes are now the norm. However, there is still a high concentration of Roma in certain schools; this is because children attend the school closest to where they live and areas with a large Roma population will have schools with a high ratio of Roma pupils.
102. Regarding special needs schools, the authorities have informed ECRI that the method of referring a child to such a school is regulated by law. While the national average of children with special needs is 4%, it is up to 7% in the case of Roma children. The authorities attribute this to the unhealthy living conditions of the Roma population which contributes to the development of disabilities. ECRI

has not heard about any cases in recent years of Roma children without learning disabilities being sent to special needs schools.

103. Finally, ECRI is pleased to observe that in the area of education there are a large number of very active NGOs and other professional and educational institutions with whom the authorities cooperate.
104. In its third report, ECRI strongly recommended that the Slovenian authorities introduce comprehensive strategies which address all areas where Roma experience disadvantage and discrimination, including housing and employment, accompanied by implementation plans setting out time frames, resources, responsibilities, outcomes and monitoring mechanisms. ECRI recommended that the Slovenian authorities ensure that these strategies are implemented throughout the territory of Slovenia and benefit all Roma.
105. As regards housing, ECRI notes that, although a small number of Roma live in houses or flats and have attained a satisfactory level of integration with the majority population, widespread discrimination often prevents Roma families from buying or renting accommodation. Most Roma continue to live in settlements isolated from the rest of society in conditions that are well below the minimum standard of living. They frequently live in makeshift wooden huts or trailers, usually set up illegally on State-owned or private land destined for agricultural or industrial use. Public utility facilities are inadequate or non-existent.
106. ECRI notes that the first priority area of the National Programme of Measures for Roma is improving the living conditions of the Roma community. Goals include identifying areas with Roma settlements and legalising ones which have been established illegally, as a necessary precondition for access to public utilities. ECRI welcomes this goal but notes that it is not easy to meet. Spatial planning and the provision of utilities are under the authority of municipalities; therefore, the implementation of measures to improve the situation in Roma settlements is dependent on the political will of each municipality. Nevertheless, ECRI notes that 130 Roma settlements have been identified around the country and so far around 55% have been legalised. Many municipalities have already completed improvements to the communal infrastructure. ECRI welcomes this progress and invites the authorities to encourage the remaining municipalities to do likewise.
107. However, ECRI was informed by the authorities that some Roma settlements were established in industrial zones which cannot be transformed into residential areas. In these cases, the policy is one of relocation of the Roma population to another site. ECRI has heard that no procedures have been put in place to ensure that a consultation is undertaken with the affected communities. It appears that Roma are often unaware that they will be relocated and are not informed as to where or when they will be moved. ECRI considers this situation of insecurity unacceptable.
108. ECRI recommends that the authorities take steps to ensure full consultation with the Roma communities concerned by the relocation policy.
109. ECRI notes with concern that one of the most serious issues related to Roma housing in Slovenia is the lack of access to a safe water supply in or near some settlements. This has been widely documented, including in ECRI's third report. According to one study, 17% of Roma obtain water from springs or neighbours, 2% from cisterns and 2% have no access to running water at all. Another report states that some communities are forced to walk considerable distances to collect water in jerry cans from petrol stations, cemeteries or polluted streams. The volumes of water collected are low and insufficient to cover drinking, cooking and

personal hygiene needs on a daily basis. In 2010, a survey by the Expert Group on Roma settlements, which was based on self-reporting by municipalities, acknowledged that the lack of access to drinking water was still a widespread problem.

110. As observed above, the competence for the provision of water, as with other public utilities, lies with municipalities. Most have waived the obligatory requirement of prior legalisation and have provided access to piped water for informal settlements. However, some have not. For example, the Roma settlement of Goriča Vas in Ribnica is home to approximately 70 people, around 22 of them children of school age. They have no water supply, no electricity and no sewage system. The residents have repeatedly asked the authorities to provide them with a water connection near to their settlement. Despite numerous demonstrations by the Roma community and a call from the President of the Republic of Slovenia to provide water to their settlement, the mayor of Ribnica stated that he would not provide the Roma settlement with piped water since there was no legal basis to do so. It appears that the community still has no access to a safe water supply.
111. ECRI deplores this situation. Lack of access to safe drinking water has a direct negative impact on the health of the Roma communities concerned, as well as indirect repercussions on their everyday life in other areas, such as education and employment. It contributes significantly to perpetuating the cycle of poverty and marginalisation of the Roma population.
112. ECRI urges the Slovenian authorities to take immediate action to ensure that all Roma have practical access to a safe water supply in or in the immediate vicinity of their settlements where this is still a problem.
113. Regarding employment, ECRI has been informed by the authorities that there have been some positive developments, including an increased number of employment programmes and a large number of public works programmes tailor-made for members of the Roma community. In 2009, three national programmes of public employment for Roma were implemented. They focused on integrating young unemployed Roma in vocational training; including adult Roma in programmes of subsidised jobs; creating jobs through public works and the employment of Roma advisers at employment service offices. 161 people participated in the programmes.
114. ECRI notes that Priority Area No. 3 of the National Programme of Measures for Roma concerns decreasing unemployment rates of members of the Roma community and enhancing their access to the labour market. The programme acknowledges that few Roma are employed (only 2 to 10% according to estimates) and that the main reason for the high rate of unemployment among the Roma is their extremely low educational level. In addition, some employers are reluctant to hire Roma. One of the goals is to decrease the number of unemployed male and female Roma on a yearly basis. Another is the promotion of equal opportunities in the labour market through combating all forms of discrimination. Time frames, responsible bodies for implementation and resources are set out.
115. ECRI notes that the employment projects outlined in the programme are not exclusively for Roma, but for “vulnerable groups in the labour market”. Dissatisfaction has been expressed about this, along with allegations of misuse of funding, namely that funds earmarked for the benefit Roma have been used to assist other disadvantaged communities as well. The authorities have stated that this happens because data on ethnic origin cannot be collected or recorded,

therefore there is no way to ensure that only Roma benefit from the measures. Nevertheless, ECRI encourages the authorities to ensure in all cases that funding designated for Roma actually reaches the targeted population.

116. In its third report, ECRI recommended that the Slovenian authorities strengthen their efforts to combat prejudice and stereotypes towards Roma among the general population, including by ensuring a prompt and unambiguous response in all cases where such prejudice results in overt manifestations, such as discrimination or hate speech.
117. According to all reports, Roma continue to be the group suffering the most prejudice and discrimination in Slovenia. This sometimes involves open manifestations of hostility. For example, in 2011 in the small town of Dobruška Vas, the majority population opposed the burial of a Roma woman in the local cemetery. ECRI notes that following an appeal to the Government, the burial ceremony eventually took place under police guard.
118. The National Programme of Measures for Roma recognises that the Roma are easy targets for discrimination and prejudice. It includes, under Priority Area No. 6, activities aimed at preventing discrimination and eliminating prejudice and stereotypes concerning Roma. Other measures include training of Roma councillors, Roma associations and Roma activists and training of public administration and judicial personnel who come into contact with members of the Roma community in their work. ECRI has no information as to whether any of the above has been carried out or is planned.
119. In its third report, ECRI recommended the need for dialogue to be opened and maintained with the Sinti on the issue of promoting their identity. The Sinti community of Slovenia numbers only around 130 persons. The authorities have stated that discussions with the Sinti have taken place and the latter have been encouraged to apply for funding under the specific programmes for Roma. However, although the Sinti admit to a common origin with the Roma, they insist on cultural and social differences and reject any association. Consequently, they receive no Government funding at present. ECRI encourages the authorities to continue to maintain a dialogue with the Sinti community.

### **The “erased”**

120. In its third report, ECRI urged the Slovenian authorities to restore the rights of persons erased from the registers of permanent residents on 26 February 1992 by implementing the April 2003 decision of the Constitutional Court in good faith and without further delay. ECRI also urged them to take the lead in placing public debate on the situation of the “erased” securely in the realm of human rights and to refrain from generalisations and misrepresentations concerning these persons which foster racism and xenophobia.
121. Both ECRI’s second and third reports dealt at length with the situation of the “erased” - citizens of other ex-Yugoslav countries, a large number of whom had lived for many years in Slovenia or were born there, who were removed from the register of permanent residents on 26 February 1992 because they did not, or could not, apply for Slovenian citizenship before the end of the six-month deadline. While some of the “erased” had no interest in obtaining Slovenian citizenship, others, being unaware that they were not Slovenian citizens, did not apply, or their applications were rejected on the grounds of the belief that they posed a threat to public order or State security. As a result they became, overnight, illegal aliens and lost access to fundamental rights attached to residence. There was no notification of erasure; most people only found out when

they tried to renew identity documents or driving licences. No appeal was possible. The general public remained ignorant of the issue.

122. Until 2008, the total number of the “erased” was believed to be 18 305 people. However, when the Government conducted a recount, the official number was established at 25 671. According to estimates, between 10 000 and 11 000 persons have now regulated their legal status by obtaining permanent residence or Slovenian citizenship (see below). Between 1 000 and 2 000 have since deceased. Therefore there are still some 13 000 people who are unaccounted for and whose status in Slovenia is still not regulated. It is presumed that the majority live abroad in neighbouring States. Some still live in Slovenia, but the exact number is unknown.
123. Since ECRI’s last report, there have been several developments. Firstly, in 2009, the Act Regulating the Legal Status of Citizens of Other Successor States to the Former SFRY was amended in order retroactively to reinstate permanent residence status to the “erased”, as required by the 2003 Constitutional Court ruling. Thus the gap in the legal status of these persons from February 1992 until the moment they were issued their permanent residence permit was closed. However, the act was criticised because it did not address, nor provide compensation for, the damages suffered by the “erased” regarding denied rights, for example in employment and education.
124. Secondly, on 8 March 2010, the Act Amending the Act Regulating the Legal Status of Citizens of Other Successor States to the Former SFRY in the Republic of Slovenia was adopted. It provides those who were erased the opportunity to apply for a permanent residence permit within three years from the date of entry into force of the act (24 July 2010). ECRI notes that the time-limit will expire in July 2013. Erased persons no longer living in Slovenia may be issued a permanent residence permit if they move to Slovenia within a one year period. Applications must be accompanied by documentary evidence, including, inter alia, proof of the expulsion or need to leave the country following erasure and evidence that the applicant held the citizenship of one of the other republics of the former Yugoslavia. As concerns persons who were not expelled following erasure, evidence is required that the applicant has been living in Slovenia since the erasure.
125. The 2010 law has been criticised for setting requirements that are excessively hard to meet: written decisions on expulsion were seldom issued; obtaining proof of citizenship cannot be met by those who were not registered as citizens anywhere in the former Yugoslavia (in particular Roma); documents such as work contracts or health insurance certificates may be difficult to produce, since many of the “erased” were denied legal access to employment or health services precisely due to their erasure. Furthermore, the current formulation of the law casts a doubt on whether those who have been residing abroad for more than ten years can claim residence. Lastly, applicants are expected to pay a fee of around 95 Euros in addition to bearing the costs of official translation of all the necessary documents. Consequently, since the law entered into force and up until April 2013, only 368 applications for permanent residence have been lodged; 101 persons have been granted permanent residence permits while 125 applications have been rejected.
126. The third major development is the judgment of the European Court of Human Rights in the case of Kuric and others v. Slovenia in which the Court found Slovenia to be in breach of the ECHR in its Grand Chamber judgment of 26 July 2012<sup>14</sup>. The case had been brought by eight of the “erased” who were citizens of

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<sup>14</sup> Kuric and others v. Slovenia [GC], no. 26828/06, 26 June 2012.

Yugoslavia of non-Slovene ethnic origin residing permanently in Slovenia before its independence. They argued that they had been discriminated against on the ground of their national origin and treated less favourably than “real” (non-Yugoslav) aliens who had lived in Slovenia since before independence and whose permanent residence permits had remained valid under the Aliens Act. The Court found violations of Article 8 (right to respect for private and family life) and Articles 13 (right to an effective remedy) and 14 (prohibition of discrimination) in conjunction with Article 8. It reasoned that the differential treatment between “real” aliens and those who had been citizens of the former federal State (later the “erased”) was based on the national origin of the persons concerned and that it did not pursue a legitimate aim and therefore lacked an objective and reasonable justification. ECRI notes that this very important ruling drew international attention to the gross violation of human rights of the “erased” in Slovenia; it was finally acknowledged that a deliberate act of discrimination on ethnic grounds had been committed.

127. In order to help the Government to fulfil its obligations and put an end to the existing situation, the Court applied the “pilot-judgment procedure” and indicated that the Slovenian Government should, within one year (i.e. by 26 June 2013), set up an ad hoc domestic compensation scheme.
128. In January 2013, the Government endorsed a draft compensation scheme which envisages uniform compensation for the “erased”. The Committee of Ministers of the Council of Europe, which supervised the execution of the Court’s judgment, regretted that the scheme left a number of questions outstanding. In particular, no detail had been provided on how the lump sum to be awarded in compensation would be calculated and there was no information on any measures aimed at reintegrating the “erased” into the Slovenian society. Following a rejection of the Government’s request for an extension of the deadline, in June 2013, a draft bill proposing a compensation scheme was presented to the Committee of Ministers. The new law, which was adopted in November 2013 and will begin to apply as of 18 June 2014, sets out that each of those eligible for compensation will receive 50 Euros per month of erasure. The “erased” will have three years to file a compensation claim after the law enters into force. It is assessed that some 12 000 people would be eligible.
129. ECRI notes that there was very little, if any, consultation with interested parties and NGOs in the preparation of the bill. Moreover, the “erased” consider the compensation to be much too low. Finally, it should be noted that there is still no resolution of the legal status of “erased” persons who so far did not or could not obtain Slovenian citizenship or permanent residence in Slovenia but wish to do so (see § 123).
130. ECRI strongly recommends that the authorities find a suitable and fair solution to compensating the “erased”, as required by the European Court of Human Rights, as well as resolving the legal status of any “erased” who wish to obtain Slovenian citizenship or permanent residence in Slovenia.
131. ECRI notes that until relatively recently, little was known about the erasure and negative attitudes towards the “erased” were commonly expressed. ECRI commends the considerable efforts made by civil society organisations, in particular the Peace Institute, to enhance Slovenian society’s knowledge about the erasure and change public opinion towards the “erased”. In 2004, only 46% of people questioned on whether the Government was obliged to observe the Constitutional Court’s ruling on the “erased” (see § 123) gave an affirmative answer; in 2009, this increased to 71%. Nevertheless, ECRI considers that some



animosity is bound to arise on account of the compensation to be paid out. It therefore calls upon the authorities to take proactive action in this respect.

132. ECRI encourages the authorities to take steps to promote a positive image of the “erased”, as victims of human rights violations, and ensure that the need for compensation is understood by the public and respected.

### **Ex-Yugoslav minority groups**

133. In its third report, ECRI urged the Slovenian authorities to initiate and maintain a meaningful dialogue with the representatives of ex-Yugoslav minority groups on how best to ensure that their needs in the field of promoting identity, notably through culture, education and media, are met. It recommended that the Slovenian authorities take a more inclusive approach reflecting the contribution of ex-Yugoslav minority groups to Slovenian society.

134. The ex-Yugoslav minority groups are comprised of ethnic Serbs, Croats, Bosnians, Kosovo Albanians, Montenegrins and persons from “the former Yugoslav Republic of Macedonia”. Many arrived after the Second World War as a result of internal economic migration within the former Yugoslavia or after 1991 as refugees or economic migrants. Around 250 000 persons belong to these groups, representing approximately 10% of the total population of Slovenia. However, in contrast to the recognised Hungarian and Italian national minorities, the ex-Yugoslav minority groups are regarded as “new national communities” and they do not benefit from any special rights or protection under the Constitution. ECRI notes that their members are dissatisfied with this situation and continue to fight for recognition as national minorities as well as representation in Parliament. For more details, ECRI refers to the Third Opinion on Slovenia of the Advisory Committee on the Framework Convention for the Protection of National Minorities<sup>15</sup>, and in particular to its paragraph 34 in which the Slovenian authorities are invited to consider the possibility, where appropriate, for persons belonging to other groups to benefit from the protection of the above-mentioned Framework Convention<sup>16</sup>. ECRI fully agrees with and supports this recommendation.

135. For questions concerning the promotion of identity, notably through culture, education and media, ECRI again refers to the Third Opinion on Slovenia of the Advisory Committee on the Framework Convention for the Protection of National Minorities<sup>17</sup>.

### **German-speaking community**

136. In its third report, ECRI reiterated its recommendation that the Slovenian authorities continue and strengthen their efforts to address prejudice and stereotyping still facing the German-speaking communities. It also recalled its recommendation concerning the need for dialogue to be opened and maintained with minority groups on the issue of opportunities available to promote identity and recommended that the authorities ensure that the German-speaking group are included in such dialogue.

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<sup>15</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on Slovenia adopted on 31 March 2011, ACFC/OP/III(2011)003, Strasbourg, 28 October 2011.

<sup>16</sup> ECRI also refers to the latest Report of the Committee of Experts of the European Charter for Regional or Minority Languages, Application of the Charter in Slovenia, 3<sup>rd</sup> Monitoring Cycle, ECRML (2010) 5, Strasbourg, 26 May 2010.

<sup>17</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on Slovenia adopted on 31 March 2011, ACFC/OP/III(2011)003, Strasbourg, 28 October 2011.

137. ECRI notes that the German-speaking community of Slovenia is very small. According to reports, its members are often still subject to prejudice and stereotypes associated with the history of the Second World War. The authorities have stated that, on the basis of a bilateral agreement with Austria, the Ministry of Culture gives specific support to the promotion of the cultural identity and language of the German speaking group. ECRI notes that the German-speaking community does not benefit from protection under the Constitution and continues to call for recognition as a national minority. For further information on these issues, ECRI refers to the recent reports on Slovenia of the European Charter for Regional or Minority Languages<sup>18</sup> and the Advisory Committee on the Framework Convention for the Protection of National Minorities<sup>19</sup>.

## **Muslims**

138. ECRI notes that there are some 50 000 Muslims in Slovenia and two distinct communities, the Islamic Community in Slovenia and the Slovenian Muslim Community. On 9 July 2007, the Government and the Islamic Community concluded an Agreement on the Legal Status of the Islamic Community in Slovenia. The terms of the agreement regulate 11 areas, including the legal personality of the Islamic community, freedom of organisation and conduct of religious and educational activities, and preserving historical and cultural heritage.
139. In its third report, ECRI reiterated its recommendation that the Slovenian authorities ensure without further delay that the Muslim communities enjoy the use of a proper mosque to practice their religion.
140. ECRI is pleased to note that the problem highlighted in its second and third reports concerning the obstacles to the construction of a mosque seem now to be resolved. An agreement was finally reached in December 2008 and the Municipality of Ljubljana has made available a site close to the city centre for the construction of an Islamic Religio-Cultural Centre. In November 2011, a design for the first mosque in the country was selected. All the necessary permits have been granted, financing is assured and construction work is due to commence in September 2013.
141. ECRI has been informed that Muslims do not experience any obvious discrimination in Slovenia. Nevertheless, they have raised one issue of contention. Recently enacted legislation on animal protection forbids slaughter without prior stunning. Concerned by this “anti-halal” law, one of the Islamic communities applied for an exemption for ritual slaughter. This was refused. At the time of writing this report, a challenge to the constitutionality of the law was being prepared. ECRI considers that exceptions limited to religious needs should be permitted, bearing in mind that the law will affect also the Jewish community and its requirements for kosher meat.
142. ECRI invites the authorities to adopt a religiously sensitive approach to the question of ritual slaughter of animals and to find solutions which take into account religious freedom.

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<sup>18</sup> European Charter for Regional or Minority Languages Application of the Charter in Slovenia, 3<sup>rd</sup> Monitoring Cycle, Report of the Committee of Experts on the Charter, ECRML (2010) 5, Strasbourg, 26 May 2010.

<sup>19</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on Slovenia adopted on 31 March 2011, ACFC/OP/III(2011)003, Strasbourg, 28 October 2011.

## **Jews**

143. In its third report, ECRI recommended that the authorities monitor the situation as concerns antisemitism and react to any manifestations that may occur.
144. According to the Office for Religious Communities of the Ministry of Culture, there are approximately 100 Jews in Slovenia. The only significant incident in recent years occurred in January 2009 when the Maribor synagogue was inscribed with antisemitic graffiti.
145. ECRI notes that the Holocaust is a mandatory topic in the primary and secondary contemporary history curriculum in schools. In January 2010, the first monument to the victims of the Shoah in Slovenia was unveiled in Murska Sobota. ECRI welcomes this special attention given to paying homage to the memory of the victims of the systematic persecution and extermination of Jews in the Shoah, due to its historical uniqueness.

## **Asylum seekers and refugees**

146. In its third report, ECRI made the following recommendations to the authorities: (i) ensure full compliance with the prohibition to return individuals to countries where they are at risk of serious human rights violations and review their decision to introduce the police pre-procedure; (ii) continue to ensure that free legal aid is available to asylum seekers from the outset of the asylum proceedings; (iii) ensure that asylum seekers have the necessary means available to cater for their basic needs, including by providing them with adequate opportunities to work; (iv) ensure that adequate reception facilities are available to asylum seekers as well as adequate access to healthcare services and secondary education; (v) strengthen co-operation with organisations active in the field of promoting the rights of asylum seekers; and (vi) strengthen their efforts to promote the integration of refugees in society.
147. ECRI notes that Slovenia is not a major destination for asylum seekers and it has one of the lowest refugee recognition rates in Europe. 16 asylum seekers were recognised as refugees in 2011 (out of a total of 358 applications) and 20 in 2012 (out of 305 applications). Most asylum requests in 2012 were from nationals of Afghanistan, Syria, Turkey, Algeria and Somalia.
148. ECRI notes that the legislation governing asylum, the International Protection Act, has been amended several times, most recently in 2012, to bring it in line with the standards of the European Union. It is pleased to note that the police pre-procedure, whereby it was up to the border police to decide whether a person who had crossed the border could apply for asylum or not, has been abolished. Now, an alien who enters Slovenia illegally and expresses the intention to file an asylum application is referred to the police who record the circumstances of the person's arrival and personal information data. The asylum seeker writes a statement giving reasons for seeking international protection. He or she is then transferred to the Asylum Home in Ljubljana. Therefore, ECRI's concerns about individuals being returned to countries where they are at risk of serious human rights violations at this stage of the procedure appear to have been addressed.
149. As for asylum seekers having the necessary means available to cater for their basic needs, ECRI notes that following the 2010 legislative amendments, under Article 78 of the International Protection Act, asylum seekers accommodated at the Asylum Home are entitled to pocket money. They may also, under Article 82, perform maintenance jobs in the Asylum Home, against remuneration. Concerning employment, asylum seekers may enter the job market nine months

after lodging their application, although language is a serious barrier to their successfully finding work.

150. Regarding reception facilities, asylum seekers, with the exception of very few who stay in private accommodation based on health needs or other compelling reasons, are accommodated in the Asylum Home in Ljubljana which has a capacity for 203 persons. In April 2013, ECRI was informed that there were 84 asylum seekers staying at the Asylum Home. The UNHCR has stated that the reception conditions are adequate. Asylum seekers are provided with basic clothing, footwear and hygienic materials and have access to free social counselling and legal assistance provided by NGOs, as well as daily access to the Internet. NGOs also organise leisure, educational, entertainment and cultural activities.
151. Asylum seekers have access to urgent medical assistance and primary health care. They may receive treatment at two designated primary health care centres if they reside in the Asylum Home or at the nearest primary health care facility if they live in private accommodation. If they require additional medical services, they must submit an application. The authorities have stated that all such requests are approved as long as they are judged to be necessary and reasonable.
152. As for education, ECRI notes that there is a kindergarten in the Asylum Home and children are obliged to attend compulsory elementary education from the age of six to 15 at the nearest primary school. Each child receives school supplies and textbooks as well as funding for excursions, sporting and cultural days in schools. ECRI is pleased to note that children who successfully complete elementary education can register for secondary education or vocational training, and thereafter have access to higher and university education, under the same conditions as Slovenian nationals.
153. Informal education is also provided in the Asylum Home in the form of individual mentoring, especially for unaccompanied minors, in order to facilitate their enrolment in formal education programmes. In addition, further to a project co-financed by the European Refugee Fund, Slovene language classes are offered on a daily basis (elementary and advanced levels) by the educational institutions Cene Štupar in Ljubljana and Andragoski Zavod in Maribor.
154. As regards co-operation with organisations active in the field of promoting the rights of asylum seekers, the authorities informed ECRI that the Ministry of Interior organises monthly meetings with relevant NGOs and consultation takes place on primary and secondary legislation relating to international protection. ECRI notes that there are currently six NGOs actively assisting asylum seekers in the Asylum Home (see § 150).
155. ECRI welcomes these positive aspects. However, it also wishes to highlight two developments, introduced by the 2012 amendments to the International Protection Act, which raise concerns. Firstly, as regards free legal aid, ECRI regrets that the right to State-funded legal aid at first instance (before the Asylum Division of the Ministry of Interior) has been removed just one year after it was introduced, including for minors. Access to legal information and assistance is now available through NGOs. ECRI always insists that legal aid should be provided free of charge at all stages of the asylum determination procedure. It considers that removing this vital form of assistance is a false economy as it compromises both fairness and efficiency; it could lead to an increase in appeals to the Administrative Court and the Supreme Court, where legal aid continues to be provided free of charge through “refugee counsellors”. It is also incompatible

with the International Convention on the Rights of the Child for minors' asylum applications to be processed at first instance in the absence of legal aid.

156. ECRI reiterates its recommendation that the Slovenian authorities ensure that free legal aid is available to asylum seekers from the outset of the asylum proceedings.

157. Secondly, prior to the legislative amendments mentioned above, asylum seekers living outside the Asylum Home were entitled to receive financial aid equivalent to the minimum income support of unemployed Slovenian citizens. However, this amount has now been reduced by 50% as a result of austerity measures. ECRI notes that asylum seekers living outside the Asylum Home are mostly vulnerable persons who have well-founded reasons, including medical ones, justifying the need to be privately accommodated, and they include minors. The financial aid they receive must cover all their basic needs, including rent, food, clothing and hygienic supplies. ECRI is concerned by this development which risks causing undue hardship for those concerned. Moreover, in view of the small number of people involved (around 50), the savings for the State are negligible.

158. ECRI strongly recommends that the Slovenian authorities reinstate the full financial support for asylum seekers living outside the Asylum Home in private accommodation.

159. Moreover, other areas of concern to ECRI include, firstly, the length of asylum proceedings. The authorities have stated that the average length is 60 days but in some cases proceedings can last up to two or three years. Secondly, ECRI's attention has been drawn to inadequacies in the system of care and treatment of unaccompanied minors. Although a legal guardian is appointed in each case, ECRI has been informed that their contacts with the unaccompanied children are limited. Further, while there is a special department for unaccompanied minors in the Asylum Home, this is not considered an appropriate accommodation facility as it cannot provide 24-hour care or suitable psychosocial treatment or programmes and leisure activities that would fulfil their needs. Thirdly, deficiencies in the provision of interpretation have been observed. FRA has reported that Slovenia is one of the countries where interpretation during communications with legal representatives is carried out by available NGO or reception facility staff, organised by the asylum seeker or resolved in an ad hoc manner<sup>20</sup>. The same report also alleged that a second instance hearing, where interpretation is normally provided, was held without interpretation.

160. ECRI recommends that the authorities take steps to speed up the asylum procedure, improve the treatment and accommodation of unaccompanied minors and ensure that good quality interpretation is provided in all cases where it is required by asylum seekers.

161. Regarding the integration of refugees in society, ECRI notes that a person who is recognised as a refugee is granted a permanent residence permit and one who obtains subsidiary protection is granted a temporary residence permit for as long as protection is maintained. According to legislation, all persons granted international protection are entitled to accommodation in the Integration House for a period of one year from the date of obtaining refugee status or subsidiary protection. They are also entitled to a one-off cash assistance which is equivalent to the minimum wage. A person under international protection who is accommodated in private lodgings and does not have means of subsistence is

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<sup>20</sup> Fundamental Rights Agency (FRA), Access to effective remedies: The asylum-seeker perspective, Thematic Report, September 2010.

granted a housing allowance for a maximum period of three years. Finding affordable accommodation is a problem, particularly since there is no entitlement to social housing, which is only available to Slovenian citizens. ECRI considers this restriction to be a clear case of discrimination based on citizenship which should be revised.

162. ECRI recommends that all persons residing lawfully in Slovenia, regardless of their citizenship, and including persons granted international protection, have access to social housing.

163. Furthermore, all persons granted international protection are provided with an advisor for integration and have an individual integration plan drawn up for them. This includes courses in Slovene language, history, culture and the constitutional system, which are free of charge and continue for a three-year period.

## **VI. Conduct of law enforcement officials**

164. In its third report, ECRI recommended that the Slovenian authorities monitor manifestations of racism and racial discrimination on the part of police officers. It also invited them to consider the establishment of an entirely independent mechanism, separate from police structures, for investigating allegations of police misconduct, including racist or racially discriminatory behaviour.

165. ECRI has been informed that in 2013 two new laws relating to the police came into force, the Act on the Organisation and Work of the Police and the Act on Police Tasks and Powers. The latter contains provisions on equal treatment and prohibits discrimination. Furthermore, a new Code of Police Ethics was adopted in 2008, setting out the obligation for police to treat everyone equally regardless of, inter alia, their national origin, race, language and religion. ECRI was informed that there is a central focus on ethics and integrity in policing and a Committee for Ethics and Integrity was established in 2011. The committee adopted a strategy on community policing to improve trust and communication between the police and society.

166. The Act on Police Tasks and Powers introduced changes to the police-complaints procedure. Simple complaints are now dealt with at the police unit implicated with a view to friendly settlement, while more serious complaints which indicate the possible commission of a criminal offence or those which were not settled amicably are examined by a panel consisting of rapporteurs from the Ministry of Interior. According to the authorities, the complaint-settlement procedures, although internal, are transparent, professional and independent. In 2007, a specialised department for organised crime was set up in the State Prosecutor's Office. This department has exclusive jurisdiction as concerns the prosecution of criminal offences committed by police, including those under Articles 131 (violation of the right to equality) or 297 (public incitement to hatred, violence or intolerance) of the Criminal Code. To ensure impartiality, investigations are carried out by officials outside the police service.

167. ECRI has been informed that out of 495 complaints lodged against the police in 2012, only five concerned racially discriminatory behaviour. Following investigations, none was considered to be well-founded. The low number of discrimination complaints, according to the authorities, reflects unprejudiced police work. ECRI considers that it may also be explained by reluctance on the part of victims to report police abuses due to lack of confidence in the complaints mechanisms internal to the police. Victims are often also reluctant to bring cases before institutions which cooperate closely and on a daily basis with the police, such as the prosecution authorities. In ECRI's view, therefore, it is necessary, as

a matter of principle, to create a system whereby a victim can bring a complaint in full confidence to an independent body whose main task is to control the activities of the police. Such a body would examine complaints in an independent manner and make recommendations on disciplinary measures or the institution of criminal proceedings.

168. ECRI recommends that the authorities establish a body independent of the police and prosecution authorities, entrusted with the examination of cases of alleged police misconduct, and, in particular, racist or racially discriminatory behaviour. It refers to its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing (in particular § 10 and §§ 58-61 of the explanatory memorandum).
169. In its third report, ECRI recommended that the Slovenian authorities take action to address practices of racial profiling notably in the exercise of police powers to establish identity.
170. The authorities have stated that racial profiling is prohibited by the Constitution and is not practised by the police. ECRI is pleased to note that the 2006 Police Act, which included a provision enabling the police to exercise their powers to establish the identity of a person based on his/her “appearance”, has been repealed by the 2013 Act on Police Tasks and Powers, which does not contain such a provision. Neither the police nor the Police and Security Directorate of the Ministry of the Interior have found any irregularities in police procedures of establishing identity based on “race” in their controls.
171. Nevertheless, according to other reports, police continue to practice racial profiling at airports and in cities; skin colour, clothing and religious symbols are allegedly among the main reasons why people are stopped. ECRI considers that racial profiling violates human rights, reinforces prejudice and stereotypes and legitimises racism and racial discrimination among the general population. Therefore, it should be clearly defined and prohibited by law and police should be trained in the reasonable suspicion standard as explained in ECRI’s GPR No. 11 on combating racism and racial discrimination in policing.
172. ECRI recommends that the authorities ensure that racial profiling is clearly defined and prohibited by law and that police are trained in the reasonable suspicion standard, as explained in ECRI’s General Policy Recommendation No. 11 on combating racism and racial discrimination in policing.
173. In its third report, ECRI recommended that the Slovenian authorities start considering steps to promote better representation of persons of immigrant background within the police ranks.
174. The authorities have informed ECRI that, although they acknowledge that diversity in the police is desirable, all Slovenian citizens have access to employment in the police if they meet the requirements and no special steps are taken to improve the representation of persons of immigrant background. Moreover, no statistics are kept on the ethnic origin of members of the police. Nevertheless, ECRI notes that there is one Roma policewoman in Slovenia. She participates in workshops and seminars at the Police Academy and teaches Roma language and culture to police officers. ECRI considers that greater efforts should be made to ensure that the composition of the police reflects the different segments of the population. This would help to build trust between vulnerable groups and the law enforcement authorities.

175. ECRI reiterates its recommendation that the authorities find a way to promote diversity in the police and encourage people from immigrant or ethnic minority backgrounds to join the service.

176. In its third report, ECRI encouraged the Slovenian authorities to strengthen their efforts to provide law enforcement officials with good quality training in human rights and non-discrimination, and in particular to raise police officers' sensitivity to cultural diversity in dealing with people of different backgrounds. ECRI refers to § 22 which addresses police training.

## **VII. Education and awareness raising**

177. In its third report, ECRI encouraged the Slovenian authorities to strengthen their efforts to provide human rights education in schools with special emphasis on equality and respect for difference. This should be reflected in education imparted within the subject "Citizenship and ethics", in the curricula for other subjects and in extra-curricular activities. In the long term, ECRI considered that the human rights should be made a compulsory subject at both primary and secondary level.

178. The authorities informed ECRI that human rights education is taught on a cross-curricula basis. In addition, since the revision of the curriculum in June 2008, the subject that is now called "Citizenship and Homeland Education and Ethics" and which covers human rights is compulsory for everyone at primary school level. Moreover, the subject "Civic culture", which is optional at primary level but compulsory at secondary level, addresses human rights, tolerance, discrimination and prejudice.

179. In its third report, ECRI strongly recommended that the Slovenian authorities take steps to raise awareness of racism and racial discrimination and confidence in the fact that these phenomena can be redressed or punished, among public institutions, the general public and victims of racism and racial discrimination. It recommended that the Slovenian authorities take steps to raise awareness within society of the need for any genuine equal opportunities policy to include positive measures aimed at improving the situation of certain disadvantaged groups.

180. ECRI has addressed awareness raising in various parts of this report. In addition, it would like to mention the Equal in Diversity project launched in December 2009 involving the organisation of a national media campaign (TV and radio spots, jumbo posters, T-shirts, etc) to increase awareness about the prohibition and harmfulness of discrimination. ECRI would also like to highlight the Festival of Roma Culture, which has been organised every year since 2009 in the month of April. Its aim is to present the diversity of the Roma culture to the general public. Events take place in different cities across Slovenia and include performances by musicians, Roma dance workshops, lectures about Roma issues, photographic exhibitions, workshops for children and adults, and films.

## **VIII. Monitoring Racism and Racial Discrimination**

181. In its third report, ECRI recommended that the authorities improve their systems for monitoring the situation of minority groups in different areas of life by collecting relevant information broken down according to categories such as religion, language, nationality and national or ethnic origin, and ensure that this is done in all cases with due respect to the principles of confidentiality, informed consent and voluntary self-identification.



182. ECRI regrets that there have been no developments in this area. In Slovenia, the processing of personal data is governed by the Personal Data Protection Act according to which data on racial, national or ethnic origin, as well as data on religious beliefs, are considered sensitive and can only be collected in certain circumstances. In practice, disaggregated ethnic data is not collected. The authorities have stated that monitoring the situation of ethnic minority groups in different spheres of life could be discriminatory in itself and might run contrary to certain constitutional provisions.
183. In this respect, ECRI refers to a recent decision of the European Committee of Social Rights<sup>21</sup>, in which it recalled that State authorities have responsibility for collecting data on particular groups which are, or could be, discriminated against. It states that the gathering of such data is indispensable to the formulation of rational policy, as States need factual information to deal with the problem. In another decision<sup>22</sup> in which arguments based on legal and constitutional obstacles to the collection of relevant data were raised by the authorities, the Committee considered that when the collection and storage of personal data is prohibited for such reasons, but it is also generally acknowledged that a particular group is or could be discriminated against, the authorities have the responsibility for finding alternative means of assessing the extent of the problem and making progress towards resolving it that are not subject to such constitutional restrictions.
184. ECRI reiterates its recommendation that the authorities gather disaggregated equality data for the purpose of combating racial discrimination, and ensure that this is done in all cases with due respect for the principles of confidentiality, informed consent and voluntary self-identification.

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<sup>21</sup> European Committee of Social Rights, *European Roma Rights Centre v. Portugal*, Complaint No. 61/2010, decision on the merits of 30 June 2011.

<sup>22</sup> European Committee of Social Rights, *European Roma Rights Centre v. Greece*, Complaint No. 15/2003, decision on the merits of 8 December 2004.



## INTERIM FOLLOW-UP RECOMMENDATIONS

The three specific recommendations for which ECRI requests priority implementation from the authorities of Slovenia are the following:

- ECRI urges the authorities to find a suitable solution with all parties involved in order for a fully independent national specialised body to combat discrimination, in particular racial discrimination, to start operating as soon as possible. It refers to its General Policy Recommendations Nos. 2 and 7 for guidance on alternative forms of specialised bodies and a full list of the duties and activities that such a body should perform.
- ECRI strongly recommends that the authorities find a suitable and fair solution to compensating the “erased”, as required by the European Court of Human Rights, as well as resolving the legal status of any “erased” who wish to obtain Slovenian citizenship or permanent residence in Slovenia.
- ECRI urges the Slovenian authorities to take immediate action to ensure that all Roma have practical access to a safe water supply in or in the immediate vicinity of their settlements where this is still a problem.

A process of interim follow-up for these three recommendations will be conducted by ECRI no later than two years following the publication of this report



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## **APPENDIX: GOVERNMENT'S VIEWPOINT**

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

ECRI, in accordance with its country-by-country procedure, engaged in confidential dialogue with the authorities of Slovenia on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, in line with ECRI's standard practice, could only take into account developments up until 4 December 2013, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.



## Comments on the Draft ECRI report on Slovenia (fourth monitoring cycle):

### Point 67:

In the relevant point only the provisions of the Law on Audiovisual Media Services (ZAVMS) that are related to hate speech are mentioned, but not the provisions set in Article 8 and the third paragraph of Article 47 of the Mass Media Act (ZMED), which also prohibit hate speech in general.

#### ***Prohibition of Incitement to Inequality and Intolerance***

##### ***Article 8***

***The dissemination of programmes that encourages national, racial, religious, sexual or any other inequality, or violence and war, or incite national, racial, religious, sexual or any other hatred and intolerance shall be prohibited.***

***(tretji odstavek 47. Člena)***

##### ***The third paragraph of Article 47***

#### ***(3) Advertising may not:***

- ***damage the respect for human dignity;***
- ***incite discrimination on the grounds of race, gender or ethnicity, and religious or political intolerance;***
- ***encourage behaviour damaging to public health or safety or to the protection of the environment or the cultural heritage;***
- ***give offence on the grounds of religious or political beliefs;***
- ***harm users' interests.***

The Mass Media Act represents the national law on media and covers all media regardless of format or platform, meanwhile (AVMS) covers only audiovisual media services (i.e. television like services). For the sake of clarity this should be corrected in the report.

### Point 73:

The recommendation is accepted. We would also like to point out that this task is being performed continuously.

### Point 134:

An addition to this point is needed. Ex-Yugoslav minority groups are fulfilling their rights on the basis of Articles 61 and 62 of The Constitution of the Republic of Slovenia, where it is stipulated the following:

*Article 61  
(Expression of National Affiliation)*

*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.*

*Article 62  
(Right to Use One's Language and Script)*

*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.*

**Point 144:**

It is apparent that ECRI has accepted the previous comment made by the Ministry of the culture, since the part of text has been erased from the report (“The Office monitors the situation as concerns anti-Semitism.”)



